

CITY COUNCIL  
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON HOUSING AND BUILDINGS

-----X

September 21, 2009  
Start: XX:XXam/pm  
Recess: XX:XXam/pm

HELD AT: Council Chambers  
City Hall

B E F O R E: ERIK MARTIN DILAN  
Chairperson

COUNCIL MEMBERS:  
Gale A. Brewer  
James Vacca  
Tony Avella  
Daniel R. Garodnick  
Robert Jackson  
James S. Oddo  
Lewis A. Fidler  
Joel Rivera  
Rosie Mendez  
Leroy G. Comrie, Jr.  
Thomas White, Jr.  
Elizabeth Crowley  
Jessica S. Lappin

## A P P E A R A N C E S (CONTINUED)

Robert LiMandri  
Commissioner  
NYC Department of Buildings

Fatma Amer  
First Deputy Commissioner  
NYC Department of Buildings

Marilyn Shan

Ed Jaworski

1  
2 CHAIRPERSON DILAN: Okay. Good  
3 morning, and I'd like to call this--

4 SERGEANT-AT-ARMS: Quiet, please.

5 CHAIRPERSON DILAN: --call this  
6 hearing to the order and I'd like to begin at the  
7 outset by apologizing for my tardiness, but we'll  
8 begin right away. My name is Erik Martin Dilan  
9 and I'm the Chairman of the Housing and Buildings  
10 Committee, and today, the committee will conduct  
11 its initial hearing on Intro 1015, which is a  
12 Local Law to amend the Administrative Code of the  
13 city in relation to the safety and security of  
14 construction sites at which work has been  
15 suspended.

16 Due to the current economic crisis,  
17 the Committee is concerned about the increased  
18 number of construction sites where the developer  
19 is unable to commence or continue work due to  
20 trouble securing financing and is unable to  
21 complete the work within the time allowed by the  
22 construction permit.

23 Also the Committee is concerned  
24 about whether or not those projects should be  
25 allowed to proceed as originally permitted when a

1  
2 developer is ready to complete the work on site.

3 Intro 1015 would allow the  
4 Commissioner of the Department of Buildings to  
5 establish a program to maintain the safety of  
6 construction sites where permitted work is  
7 temporarily suspended. An owner of a construction  
8 site where work has been suspended may apply to  
9 the Commissioner to be part of such a program in  
10 accordance with any terms and conditions the  
11 Commissioner may determine. However, the  
12 legislation does require that the Commissioner  
13 make minimum requirements for inclusion into the  
14 program as described in today's committee report.

15 Today, the Committee expects to  
16 hear testimony from representatives of the  
17 Department of Buildings, from real estate  
18 professionals, developers, property owners, and  
19 representatives of labor, and any other persons  
20 interested in the item before the Committee today.

21 As a reminder, I know the Sergeant-  
22 at-Arms said it, but anybody wishing to testify  
23 before the Committee on this matter, please fill  
24 out an appearance card and the Committee will be  
25 happy to hear your testimony.

1  
2 At this time, I'd like to turn the  
3 mic to the sponsor of the bill, Council Member Dan  
4 Garodnick.

5 COUNCIL MEMBER GARODNICK: Thank  
6 you, Mr. Chairman and members of the Committee,  
7 for holding the hearing on Intro 1015. And thank  
8 you for the opportunity to say a couple of words  
9 at the outset here.

10 We all know that it only takes a  
11 quick glance around our neighborhoods to see that  
12 some of the projects out there have slowed, and in  
13 some cases they have stopped. In connection with  
14 the economic crisis that we are in, empty pits  
15 punctuate our neighborhoods and we have seen half  
16 finished buildings languish, leaving sidewalk  
17 sheds up, in some cases for months or years. At  
18 the end of this summer there were 362 stalled  
19 construction sites around the city.

20 The legislation that we're  
21 discussing today creates a mechanism to address  
22 these stalled developments by ensuring that sites  
23 where work has been suspended are not left in an  
24 unsafe condition.

25 Currently if a developer does not

1  
2 begin work within 12 months of receiving a permit  
3 or if work is suspended for 12 months, the permit  
4 expires with no further obligations on the part of  
5 the developer.

6           This bill will create a new program  
7 within the Department of Buildings to mandate a  
8 safety and maintenance plan and require developers  
9 to say when work will be suspended, how long will  
10 work will be delayed, and to make that information  
11 available to the public, community boards, and  
12 others so they know precisely what to expect and  
13 precisely what is going on. In return, developers  
14 could have their work permits temporarily  
15 extended, rather than having to reapply for them  
16 when work is ready to resume.

17           I think that this is an important  
18 way to try to bring more safety to our  
19 neighborhoods through increased Department of  
20 Building's monitoring of stalled sites, as well as  
21 heightened accountability for buildings that  
22 maintain inactive sites while appreciating that  
23 there are concerns for developers out there today,  
24 and in some situations they simply are having  
25 difficulty continuing with what they set out

1

2

initially to do with best intentions.

3

4

5

6

But I look forward to hearing the issues on all sides here today. And, again, I thank you, Mr. Chairman and the Committee for holding the hearing.

7

8

9

10

11

12

13

14

15

16

17

18

CHAIRPERSON DILAN: Okay. I'd like to take a brief moment to just acknowledge my colleagues who are here. Starting on the left, we have Council Member Gale Brewer of Manhattan, Council Member James Vacca of the Bronx, Council Member Tony Avella of Queens, we just heard from Council Member Garodnick, Council Member Robert Jackson of Manhattan, Council Member James Oddo of Staten Island, and Council Member Lew Fidler of Brooklyn. I know there's another hearing going on and there are some members of the Committee that will be going back and forth.

19

20

21

22

23

24

25

At this time, we are about ready to hear from the Department of Buildings, and I understand that they are en route, so we'll allow a few seconds for them to come, and I believe, and I hope that is them entering, it is. We'll allow Commissioner LiMandri and his staff a second to get settled and then they can begin with their

1  
2 testimony. [Pause] Commissioner, good morning,  
3 and I apologize for my tardiness at the outset,  
4 sorry for holding you up.

5 COMMISSIONER ROBERT LIMANDRI:

6 Thank you. Thank you, Chair Dilan. Thank you  
7 Housing and Buildings Committee. To my left is  
8 Fatma Amer, the First Deputy Commissioner at  
9 Buildings Department. I will go ahead and give my  
10 testimony and then we'll take questions.

11 Our agency goals are clear: advance  
12 public safety, facilitate compliant development,  
13 and enforce the building code and other laws  
14 governing construction. The stalled sites bill  
15 helps us accomplish these goals.

16 Intro 1015 would encourage property  
17 owners to come forward with faltering or halted  
18 projects, craft a plan to increase the safety on  
19 their sites, and make it easier for us to monitor  
20 their maintenance and regulate their compliance  
21 with the building code. Adopting this bill will  
22 make it easier to resume construction on these  
23 sites once the owners get the financing in place.  
24 This bill will not affect vesting for zoning  
25 purposes, the Board of Standards and Appeals is

1  
2 empowered under the zoning resolution to address  
3 vesting issues that could arise from a stalled  
4 construction site.

5           Therefore, Intro 1015 supports New  
6 York City's economy in a number of ways: it would  
7 eliminate nuisances in our neighborhoods and  
8 offset the adverse effects that poorly maintained  
9 sites have on property values. Moreover, it would  
10 help the city's unemployed and underemployed  
11 construction workers by getting them back to work  
12 faster. The bill would do this by easing the  
13 process for property owners who comply with the  
14 law to get their crews back to work once they've  
15 secured financing.

16           If a site is maintained in a safe  
17 manner, there's no reason why construction should  
18 not be encouraged to start up as quickly as  
19 possible once the financing is in place. History has  
20 taught us that a completed building is a much  
21 safer one under construction. In addition, for a  
22 construction worker who has been laid off from the  
23 job and struggling to pay his bills, the  
24 difference between getting back to work in days  
25 instead of months is critical.

1  
2 Under the construction codes today,  
3 the Buildings Department permits automatically  
4 expire if a construction site's work is suspended  
5 for more than 12 months. While the economic  
6 downturns are always detrimental to construction  
7 projects, this recession is especially ill-timed.  
8 Stalled projects have been filed under the 1968  
9 building code would be required to re-file under  
10 the 2008 construction codes, and as a result re-  
11 filing can have far-reaching implications for many  
12 construction projects.

13 Property owners whose projects  
14 started under the '68 code and put on hold for  
15 more than a year would essentially be forced to  
16 start the entire project over, even if the  
17 building is partially built. They would be  
18 required to redesign the building, re-file the  
19 project, go through the approval process all over  
20 again, and possibly have to demolish the work  
21 that's been completed to meet the new code.

22 The results can reach well beyond  
23 workers not getting back to work on the job.  
24 Property owners may be forced to secure financing  
25 to build a significantly different building, not

1  
2 just get the funds to finish what they've started.  
3 The uncertain credit market increases the chance  
4 of projects going bankrupt, owners disappearing,  
5 and sites languishing in our neighborhoods, until  
6 a buyer with adequate financing comes in to launch  
7 a new project. In the interim, weather conditions  
8 can damage these properties and create possible  
9 dangers.

10 Some property owners have failed to  
11 maintain their stalled sites and we realize more  
12 safeguards need to be in place. For instance,  
13 we've issued 400 violations to various stalled  
14 sites since March. So to put this in real terms,  
15 I'll give you two examples in Brooklyn. On 52nd  
16 Street in Borough Park, previous property owners  
17 abandoned the site, leaving a deep excavation  
18 where a 12-story apartment building would have  
19 been built. Neighbors complained that the pit  
20 accumulated deep stagnant water--clearly a danger  
21 and a nuisance. Our stalled site inspectors first  
22 inspected the site in May and reached out to the  
23 new owners. The new owners removed the stagnant  
24 water, backfilled the site, cleared the overgrown  
25 vegetation and accumulated debris, and they are

1  
2 monitoring the sheet piles to be sure they remain  
3 safe.

4 In Crown Heights on Lefferts  
5 Avenue, residents had been forced to navigate  
6 around construction trailers blocking the sidewalk  
7 to avoid the weakened dangerous fence. Our  
8 inspections also found that the fence was down,  
9 making the stalled 7-story building superstructure  
10 open and accessible. The unit inspected six times  
11 since April of 2009 after reaching the ownership,  
12 the owner has removed the trailers, installed the  
13 proper construction fence and a new sidewalk, and  
14 no longer poses a danger to the community.

15 It's important that residents alert  
16 us to the stalled sites in their neighborhoods,  
17 though there's a difference between a site that  
18 doesn't have workers on it for a few days and a  
19 site that's actually stalled. For example, the  
20 property might be quiet for a week while crews are  
21 waiting for a window delivery. In a situation  
22 like this, construction activities may not be  
23 taking place at the site, but the project is still  
24 moving forward. For this reason, we must  
25 encourage property owners to come into the program

1  
2 on their own.

3           So far we've identified more than  
4 400 stalled sites throughout the five boroughs.  
5 Every two weeks we post a list of these properties  
6 on our website for easy public access. While we  
7 anticipate this total to increase, the number  
8 changes regularly as construction begins and  
9 properties are removed from the stalled sites  
10 list.

11           Intro 1015 will help offset the  
12 risk that stalled sites pose, better protecting  
13 New York's communities from unsafe, unattended,  
14 and unsightly stalled construction. The bill  
15 would amend Administrative Code 28-105.9 by giving  
16 the Buildings Commissioner the power to continue  
17 to renew permits that have expired on stalled  
18 sites. It would authorize the Department to  
19 establish a program to maintain the safety of  
20 construction sites where work is temporarily  
21 suspended.

22           Under this program, the Department  
23 would be able to renew these permits for up to  
24 four years, but only if property owners meet  
25 certain conditions to enter the program. Owners

1  
2 opting into the program will have to devise a  
3 site-specific plan to maintain the property while  
4 the work is stalled. Property owners will be  
5 required to show us how they'll do it; monitor  
6 these sites, structural stability, including  
7 excavation and ensuring maintenance and  
8 construction fencing; monitor scaffold sidewalk  
9 sheds, temporary walkways or remove them if  
10 they're not necessary to protect the public;  
11 implement any necessary excavation site  
12 dewatering; schedule regular inspections to ensure  
13 the site has no nuisances; and supply monthly  
14 inspection reports to the Department; and take  
15 measures to prevent trespassing, which includes  
16 installing proper construction fencing with view  
17 panels to enable the Department inspectors when  
18 they drive up to be able to monitor site  
19 conditions even if the fence is closed. They must  
20 also take specific preventive safety measures,  
21 they may include maintaining all fire suppression  
22 and fire detection systems, removing all form work  
23 or other materials that could be blown off the  
24 site, removing construction debris and properly  
25 storing any construction materials, removing

1  
2 volatile gases or liquids that don't support  
3 emergency operations, and relocating all heavy  
4 construction equipment to safe locations.

5           Property owners must file their  
6 plan with us and we will review it to make sure  
7 that the important safety items are covered. If  
8 the maintenance strategies don't meet the site's  
9 complexities, we'll require the owners to  
10 resubmit.

11           Once property owners have created a  
12 plan that satisfies the Department's requirements  
13 they'll have to submit regular maintenance reports  
14 to us. These reports will indicate when and how  
15 these owners are doing their part to keep the  
16 public safe. We'll also be conducting our own  
17 quality assurance inspections to conform that the  
18 property owners are doing what they've committed  
19 to do.

20           There's ample motivation for these  
21 owners to comply with the program's requirements.  
22 If we find that they are not, we'll issue  
23 violations, their permits will expire, and they'll  
24 face the permitting challenges and financing  
25 concerns I've described earlier.

1  
2 In any situation where a property  
3 owner fails to correct an immediate danger, we  
4 will and we always alert HPD, Housing and  
5 Preservation Development, to do the necessary work  
6 to maintain and make sure that the site is safe  
7 for the public.

8 We're regularly monitoring the  
9 locations on the list, the frequency depends upon  
10 the conditions we find. We'll inspect an unsafe  
11 site every week unannounced and we'll visit the  
12 safe sites at least once a month. When we find  
13 safety issues like loose construction debris,  
14 property owners must correct these immediately.  
15 Developers failing to maintain safe conditions can  
16 face violations with penalties as high as \$25,000.  
17 Of course, we'll continue to enforce the building  
18 code at the stalled properties we identify, even  
19 if the property owner doesn't opt into the stalled  
20 sites program.

21 Finally, under Section 2 of the  
22 bill, it would take effect immediately and remain  
23 in effect 'til July 1st of 2013. We expect the  
24 economy will have recovered at that point and this  
25 additional incentive will not be necessary and,

1  
2 therefore, it would sunset.

3 In closing, the stalled sites bill  
4 will help make our neighborhood safer, support  
5 property values by eliminating nuisances and  
6 dangers, and help construction workers get back to  
7 their work jobs faster. This legislation offers  
8 property owners a new incentive to increase their  
9 site safety standards, help us maintain an open  
10 dialogue with them, and give us a viable entity to  
11 work with in case there's an emergency.

12 Fatma and I would be happy to  
13 answer any questions at this time.

14 CHAIRPERSON DILAN: Okay. Before  
15 we get to questions, I just want to acknowledge  
16 some members of the Committee that have joined us.  
17 We've been joined by Joel Rivera of the Bronx, as  
18 well as Rosie Mendez of Manhattan.

19 Oh, and we'll begin with Council  
20 Member Fidler, I'll defer my questions until the  
21 end and then we'll begin with Council Member  
22 Fidler followed by Avella.

23 COUNCIL MEMBER FIDLER: Thank you,  
24 Mr. Chairman, and welcome, Commissioner.

25 I have to tell you that I put my

1  
2 name on this bill because I was thrilled that  
3 we're actually going to address this problem. I  
4 hope we're going to maintain at least partially an  
5 outer borough perspective on this because this is  
6 something that my district office hears about  
7 almost daily. And we're going to hear later,  
8 probably after you've left, from at least one of  
9 my most committed community leaders who has been  
10 working on this issue and has sent me his thoughts  
11 in advance and, unfortunately, the way we work  
12 around here is that the public testifies last. So  
13 I'm going to ask some of the questions that I  
14 think he's raised for me that he would ask if he  
15 was sitting up here to ask you and I think they're  
16 good questions.

17 So let me start off by, how long  
18 does a building permit last now?

19 COMMISSIONER LIMANDRI: A building  
20 permit lasts for up to two years, as long as they  
21 maintain their insurance.

22 COUNCIL MEMBER FIDLER: And so  
23 we're already here talking about a site that is  
24 going to have taken longer than two years to  
25 construct by definition. No one else would be

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

interested in this program, am I correct?

COMMISSIONER LIMANDRI: I don't understand the question.

COUNCIL MEMBER FIDLER: Well this bill has people who are going to voluntarily identify in hopes of receiving a benefit, that benefit being an extension of their building permit without having to go through the process that you outlined in your testimony.

COMMISSIONER LIMANDRI: Yes.

COUNCIL MEMBER FIDLER: Someone who had a year left in their building permit's not likely to come forward.

COMMISSIONER LIMANDRI: Well, you know, we could hypothetically talk that through. I think one of the most significant things that you have to realize is that, as the economy starts to turn there are opportunities for people to get back to work. Sometimes the entity that's holding the building permit and the property is not a viable solution anymore, but they want to transfer it and they want to get their value back as much as they can or the banks and they want to move forward. Having the building permit in place

1  
2 gives that new entity the opportunity to move  
3 forward quicker and it will give the new entity  
4 the incentive to buy and to move forward quickly,  
5 'cause we know that if we say to them, your  
6 building permit lapsed, you have a half-built  
7 building and now you're going to start all over  
8 again, you know, I don't have to be--

9 [Crosstalk]

10 COUNCIL MEMBER FIDLER:

11 [Interposing] Commissioner, I'm not sure that  
12 you're really--I think you're answering more than  
13 I'm asking. I understand all that, and there's no  
14 question that we want to certainly encourage any  
15 developer that is in the midst of a project to  
16 finish the project because we also have the second  
17 concern, which is that these unfinished projects  
18 are in fact a blight on our neighborhoods. And if  
19 you're living on a block and in the middle of the  
20 block someone tore down a home and they started  
21 building something and then they abandoned the  
22 project in the middle of your block of one and two  
23 family homes, that's quite a nuisance to live with  
24 if you're living on that block.

25 So well all my point was is that

1  
2 people aren't going to self-identify until they're  
3 getting closer to the end of their permit, there's  
4 no reason for them to do it if they stall at the  
5 beginning of the two-year process. They could do  
6 it at any time during the two years, right?

7 COMMISSIONER LIMANDRI: They can do  
8 it at any time in the process, that's correct.

9 COUNCIL MEMBER FIDLER: Okay. Now  
10 what laws are there on the books now that require  
11 someone who has got a building permit to maintain  
12 and secure their property?

13 COMMISSIONER LIMANDRI: They have  
14 to maintain a safe worksite no matter what, right?  
15 Throughout the process whether they're stalled or  
16 not they have to maintain that people can't walk  
17 onto the property, there are site safety sections  
18 of the building code that require them to maintain  
19 a site that's safe.

20 What we're dealing with is sites  
21 that don't have any people on it for long periods  
22 of time and in some cases maybe the contractor has  
23 walked away, but the owner still owns the  
24 property, so the building permit that has been  
25 issued to the contractor is in jeopardy, maybe

1  
2 they're fighting for payments and things.

3 COUNCIL MEMBER FIDLER: So what I'm  
4 trying to understand is, we're giving a benefit to  
5 the property owner or developer, what additional  
6 requirements are we imposing upon them to maintain  
7 their sites?

8 COMMISSIONER LIMANDRI: Well what  
9 we require is a site specific plan. Now, the code  
10 has lots of these requirements in it already, but  
11 there are going to be times where we are going to  
12 need to illustrate for the Department on a regular  
13 basis who is going to do what. So if you don't  
14 have, for example, in an emergency situation, if  
15 it's a high-rise building or a mid-rise building  
16 that needs an elevator access, there's no elevator  
17 today under construction, there's a vertical hoist  
18 that needs to be there for the firemen when they  
19 show up. We want to make sure and put the owner  
20 on notice that they're required to watch to make  
21 sure that they have a contract in place that they  
22 are going to maintain that hoist. Regardless of--

23 COUNCIL MEMBER FIDLER:

24 [Interposing] Perfect, let me stop you there.  
25 Under present law, can you do that?

1  
2 COMMISSIONER LIMANDRI: Under  
3 present law, there is a requirement. The issue  
4 is, is that we need to make sure that there's a  
5 plan.

6 COUNCIL MEMBER FIDLER: Again,  
7 there is a requirement, failure to do that is a  
8 violation?

9 COMMISSIONER LIMANDRI: That's  
10 correct.

11 COUNCIL MEMBER FIDLER: Punishable  
12 by?

13 COMMISSIONER LIMANDRI: Punishable  
14 by the building code.

15 COUNCIL MEMBER FIDLER: So, you  
16 know, all you're really saying to me is that  
17 you're going to--in order to confer this benefit  
18 on a property owner or developer, you are going to  
19 insist that they tell you what their plan is to  
20 comply with what is already the law.

21 COMMISSIONER LIMANDRI: Yeah, what  
22 you want to do is you want them to think through  
23 their plan. I'm going to guarantee you that there  
24 are many projects, for example, in the outer  
25 boroughs that there is no plan and we have to

1  
2 currently fine these projects in Brooklyn, in  
3 Queens, no one is self-selecting, no one's raising  
4 their hand and saying I'm stopped. What we need  
5 to do is we need to engage the developer, the  
6 owner of that property and make sure that he  
7 clearly understands that we are not going to allow  
8 them to have a vacant lot or a vacant building  
9 half built and for him to fight with his  
10 contractor and not maintain the site, because  
11 what's happening is that that's--you know, that  
12 can be a problem.

13 COUNCIL MEMBER FIDLER: And you  
14 have the enforcement personnel to handle this  
15 load?

16 COMMISSIONER LIMANDRI: Sure, today  
17 we have a set of inspectors that are part of what  
18 we call the stop work order patrol, they line up  
19 with sheriffs where we do rotations to make sure  
20 that stop work orders are enforced. We also have  
21 a special team of individuals that are just  
22 working on this program right now that are  
23 actually taking a list of permits and driving and  
24 inspecting and trying to find sites or, if the  
25 public raises their hand and says, I suspect this

1  
2 is a stalled site, please check it out--Council  
3 Members, district managers, you know, we get an  
4 influx of calls that way as well.

5 COUNCIL MEMBER FIDLER: I suspect  
6 that if you are here later and you hear from Mr.  
7 Jaworski [phonetic] who I referenced earlier,  
8 you're going to find that there is less than a  
9 full degree of satisfaction with the response when  
10 a constituent or a neighbor calls up and says, I  
11 think this site is stalled and I think.... And  
12 that's why I was excited to see the bill, but I'm  
13 just a little concerned that we're conferring a  
14 rather large benefit on a property owner and  
15 developer and we may not be getting enough in  
16 return, because this problem is pervasive and I  
17 just the--

18 [Crosstalk]

19 COMMISSIONER LIMANDRI:  
20 [Interposing] . Well just can I respond to that--

21 COUNCIL MEMBER FIDLER: Sure.

22 COMMISSIONER LIMANDRI: --is that  
23 what this department consistently needs is  
24 stronger enforcement policies. What you are  
25 delivering in this piece of legislation is the

1  
2 ability for this Department to withhold a permit.  
3 This is significant. So even though all of those  
4 safety measures are in the code, you say it  
5 yourself, it's pervasive; by us to withhold the  
6 delivery of that existing permit so that that  
7 builder can turn that over and make it part of a  
8 deal is a significant--

9 COUNCIL MEMBER FIDLER:

10 [Interposing] Don't you have that power now?

11 COMMISSIONER LIMANDRI: No.

12 COUNCIL MEMBER FIDLER: No, you  
13 don't have the power to withhold a permit?

14 COMMISSIONER LIMANDRI: We don't  
15 have the power to withhold a permit.

16 COUNCIL MEMBER FIDLER: For someone  
17 who's not maintaining their site?

18 COMMISSIONER LIMANDRI: No, we have  
19 the power to write them violations.

20 COUNCIL MEMBER FIDLER: And do you  
21 have the power to withhold a permit for someone  
22 with outstanding violations?

23 COMMISSIONER LIMANDRI: No.

24 COUNCIL MEMBER FIDLER: Well that's  
25 a law that we ought to change, I mean you should

1  
2 have the power to withhold the permit if someone  
3 has outstanding, unpaid, uncured violations. I'm  
4 almost shocked to hear that answer, and I'm going  
5 to do something about that.

6           So on this piece of legislation,  
7 you mentioned a number of factors that you would  
8 expect to see in a plan--making sure that the  
9 volatile gases are removed; I didn't hear rodent  
10 control, but I imagine that would be one; I heard  
11 you talk about standing water; having a view panel  
12 in the fence; I didn't really hear aesthetics, but  
13 I think that's of great concern to those of us,  
14 particularly in the outer boroughs. Would you  
15 have a--and none of that's in the bill. I'm glad  
16 to hear that's your intention and that's in your  
17 head. Do you have any problem if the bill were  
18 amended to say all of these issues must be part of  
19 the plan, how we're going to comply with all of  
20 these issues, do you have a problem with that?

21           COMMISSIONER LIMANDRI: Well,  
22 typically, what I'll call these are details, we  
23 can promulgate a rule. In other words, as long as  
24 we get the ability to pass the law, we can always  
25 write the bill to reflect what's in the testimony,

1  
2 if that's what's--

3 [Crosstalk]

4 COUNCIL MEMBER FIDLER:

5 [Interposing] I'm not even saying that we want to  
6 be detailed about what they must do, just that  
7 such a plan must include rodent control, removal  
8 of standing water, removal of volatile gases,  
9 things like that. So you can promulgate a  
10 regulation that covers that, but at least we on  
11 the Council can be satisfied that we have directed  
12 you to create plans that include those things. Do  
13 you have a problem with that?

14 COMMISSIONER LIMANDRI: I don't  
15 have a problem with making sure that people know  
16 that they have to give me a rodent control plan.

17 COUNCIL MEMBER FIDLER: I tend to  
18 think these things are the law already, I would,  
19 before I conferred such a benefit on a developer  
20 or property owner, I would want to know that their  
21 plan is going to deal with, not just the safety  
22 and security as it is defined loosely, but the  
23 specific things that have been absolutely  
24 torturing residential neighborhoods in Brooklyn,  
25 that they would have to be specific about how

1  
2 they're going to comply with the law in all these  
3 various quality of life ways. I'd like to see  
4 something about the aesthetics of the site as well  
5 because some of these are just torturously ugly  
6 and if you're living next to them it's just not  
7 fair. I don't know quite how to do that, but I  
8 would defer that to the expertise of your office.

9 COMMISSIONER LIMANDRI:

10 [Interposing] Well, again, I would go back to this  
11 is about safety and we illustrate how the quality  
12 of life in that particular neighborhood on  
13 Lefferts Boulevard, we were able to address it,  
14 but this is a safety bill, not an aesthetics bill.

15 COUNCIL MEMBER FIDLER: Well I

16 think it should be both because we're probably  
17 only going to get one swing at the baseball here  
18 and I realize that there's a limitation to what  
19 you can do on the aesthetics, but, quite frankly,  
20 if you've lived on a block for 25 years and  
21 someone leaves a half-built hulk in the middle of  
22 your block, at very least the fence should be  
23 graffiti clean, it should be painted, it shouldn't  
24 be grotesquely ugly. And I think that's not a lot  
25 to ask of someone who is getting quite a

1  
2 significant benefit as you've described and  
3 probably is a good thing for the city that we  
4 confer those benefits, that's why I'm happy my  
5 name is on the bill, but I think we need to be  
6 getting more back. And I would like to see this  
7 bill amended to reflect those things so that your  
8 plan, your regulations require plans that are  
9 going to make sure that the owner and developer is  
10 complying with all the laws, all of these things,  
11 and not leaving a blight on a block that could be  
12 there in perpetuity.

13 I'd also like to know why this bill  
14 sunsets, I don't understand why we would only have  
15 this for a few years. And, quite frankly, I think  
16 there ought to be a cap as well on just how long  
17 we can allow someone to continue to renew these  
18 permits at--

19 COMMISSIONER LIMANDRI: There is.

20 COUNCIL MEMBER FIDLER: --a certain  
21 point in time.

22 COMMISSIONER LIMANDRI: There is.

23 COUNCIL MEMBER FIDLER: There is?

24 COMMISSIONER LIMANDRI: You can  
25 only do it twice--

COUNCIL MEMBER FIDLER: Not in the bill.

CHAIRPERSON DILAN: Yeah, and then I'm going to ask if you could sum up after--

COUNCIL MEMBER FIDLER: Yeah, I'm done, I am--

[Crosstalk]

COMMISSIONER LIMANDRI: There is, you can only do it twice. And the reason I think most people think it should sunset is that we don't want to encourage people to sort of half start when economic conditions come back.

So in some sense, I think it's for now, any changes that you want to make to the bill I just caution you that I'm waiting and I've been waiting and I really think that the city needs it now. So any sort of changes you might make, as long as it doesn't protract this discussion to get passed for any great length of time--

COUNCIL MEMBER FIDLER: Well--

COMMISSIONER LIMANDRI: --because now we're going into winter season.

COUNCIL MEMBER FIDLER: --I appreciate that point, Commissioner, I appreciate

1  
2 your testimony, and I don't generally sit around.  
3 I'd like to see this bill passed too and I would  
4 take an extra two weeks to get it right. And, you  
5 said, so we only do it once. So thank you for  
6 your testimony, and I do look forward to working  
7 with you on tightening this bill. Thank you.

8 CHAIRPERSON DILAN: Thank you,  
9 Council Member Fidler. Council Member Avella  
10 followed by Garodnick.

11 COUNCIL MEMBER AVELLA: Thank you,  
12 Mr. Chair. I certainly echo the comments that  
13 Council Member Fidler said about the bill. When I  
14 first heard about it, I said, wow, finally we're  
15 going to do something about all these stalled  
16 construction sites, which, as Council Member  
17 Fidler correctly said, are a problem in every  
18 single neighborhood.

19 However, after looking at the bill  
20 and listening to your testimony, the question I  
21 had for the sponsor of the bill and the question I  
22 have for you, why is this necessary? You have the  
23 laws on the books now, why aren't you enforcing  
24 the laws on the books now?

25 COMMISSIONER LIMANDRI: Well as we

1  
2 all know, there are laws on the books that we can  
3 elicit violations for, but, at the end of the day,  
4 you and I both know that you want to encourage  
5 people to move quickly, respond to this department  
6 and have consequences, and the consequences  
7 sometimes have to be greater than writing a  
8 violation.

9 COUNCIL MEMBER AVELLA: So why not  
10 increase the violation? I mean, you know, Council  
11 Member Fidler hit the nail on the head, you're  
12 giving these developers a huge benefit and I don't  
13 see how the community gets anything in return,  
14 other than the commitment--

15 COMMISSIONER LIMANDRI:  
16 [Interposing] Well I can tell you I can--

17 COUNCIL MEMBER AVELLA: Can I  
18 finish? Other than the commitment that you're  
19 going to enforce something down the road when you  
20 don't enforce the existing laws. I mean I don't  
21 know how you explain it to me because right now I  
22 can't vote for this bill.

23 COMMISSIONER LIMANDRI: Well one of  
24 the things that in the daily workings of real  
25 estate development community is that when you have

1  
2 a site that's stalled and there's a bank involved  
3 there may be a discussion amongst the bank and the  
4 developer to say, okay, we're going to take this  
5 over, but we really don't want to, what are our  
6 options? One option is to sell that site to  
7 someone else. If you sell the site to someone  
8 else with a permit that's valid a year from now,  
9 that is a stronger ability for that deal to get  
10 done, for us to get a finished building. What we  
11 right now have, and you are right, we have  
12 buildings that are half built in neighborhoods,  
13 writing violations, even if they're higher, just  
14 taxing the property with more vios goes completely  
15 against what we're trying to do, is we're trying  
16 to get these things done, not saddle the property  
17 with 50 or \$100,000 worth of vios, which is going  
18 to go counter to the project. So if the project's  
19 worth \$1 million and we're writing 25, \$40,000  
20 worth of vios because they're not following  
21 their...the entity may be defunct already. So at  
22 the end of the day we think that it's a strong  
23 incentive.

24 COUNCIL MEMBER AVELLA: And how is  
25 that--and I'm sorry, because maybe I'm just

1  
2 missing the point here, but I don't think that's  
3 the case, how is that different from they have a  
4 site plan and they don't follow and they still get  
5 violations? I mean, isn't it incumbent upon any  
6 developer to follow the law? I mean, in effect,  
7 the way I'm reading what you're saying is, well  
8 they're not maintaining the site so we're issuing  
9 violations, how is that helpful? Well if they  
10 don't pay attention to the violations now, why  
11 should we give them this huge benefit and hope  
12 that they'll follow the law in the future? I  
13 mean, I just don't see this, this seems to be--

14 [Crosstalk]

15 COUNCIL MEMBER AVELLA: --turning  
16 common sense on its end.

17 COMMISSIONER LIMANDRI: I think the  
18 one piece that is really important to hit on is  
19 the ability for the financial benefit for the  
20 project to move forward for the next guy that's  
21 probably going to come in and take it over.  
22 Again, to saddle the property with more violations  
23 goes counter to what we're trying to achieve--the  
24 city and the neighborhood doesn't want to have a  
25 half-built building.

1  
2           So, for example, if you make it so  
3 arduous that they can't build a building there, in  
4 other words, if they have to come back to the  
5 Buildings Department, they have to go through a  
6 planning exam again, they might have to redesign,  
7 they may actually--we know buildings that actually  
8 have material stored, they've already bought the  
9 steel, they manufactured it, it has come from  
10 China and it is sitting in a warehouse in some  
11 other state. That is all teed up so that the  
12 minute the credit market comes back or the  
13 developer can figure out a way to finance the  
14 project, he doesn't need to come back to me and go  
15 through a long protracted approval process. As  
16 long as it meets the current zoning, he can go  
17 right back to work.

18           And it's that time period that  
19 you're discounting as not being important, that is  
20 a very significant important piece. He has the  
21 building permit in his hand, he's been installed,  
22 according to the code today he cannot use that  
23 building permit anymore. What we're saying is you  
24 still can as long as you come forward, you show me  
25 that you're stalled and you do your due diligence

1  
2 for the city, and that's what we want to have  
3 happen, these developers need to maintain those  
4 sites. And I agree with you, writing violations  
5 is not the end-all and be-all answer to this  
6 solution, we need to find creative ways to get  
7 people to comply, and if it means that we have to  
8 show them that we're going to take a significant  
9 right away if they don't, I think it's a grand  
10 slam.

11 COUNCIL MEMBER AVELLA: Well, I  
12 would disagree, I think you're giving them, as  
13 Council Member Fidler said, a huge benefit with  
14 the hope that they will follow the new regulations  
15 or the site plan that you've agreed with the  
16 developer. I just don't see it. I don't think  
17 this will address the issue that we have here in  
18 the city, I don't think it'll improve conditions  
19 one bit and, unless you go along with Council  
20 Member Fidler's suggestions to really tighten this  
21 up, I don't see this as an improvement.

22 CHAIRPERSON DILAN: Thank you,  
23 Council Member Avella. Council Member Garodnick,  
24 followed by Vacca.

25 COUNCIL MEMBER GARODNICK: Thank

1  
2 you very much, Mr. Chairman, and, Commissioner,  
3 thank you for your testimony. Not surprisingly, I  
4 found it very persuasive as the sponsor of this  
5 legislation, and I think that your points about  
6 the goals that we're after here being number one,  
7 the safety of the site and two, getting the site  
8 completed is really the point; that we want to  
9 make sure that it gets done, we don't run  
10 obstacles that are going to make it more difficult  
11 unnecessarily but actually take steps to ensure  
12 the safety of the site.

13 But I wanted to ask you a little  
14 bit about what sort of costs we're talking about  
15 for people who have imported steel from China, who  
16 have put in foundations, started building the  
17 site, and have put it in in a certain way. If  
18 they were to run into a situation where they  
19 suddenly were no longer complying with the '68, or  
20 rather the 2008 building code, what might that  
21 mean for them in terms of dollars? Give us a  
22 sense as to what sort of implications we would be  
23 talking about for those site.

24 COMMISSIONER LIMANDRI: Well  
25 certainly the easiest thing to understand is the

1  
2 delays, in other words, having to re-file with the  
3 Department and providing a new set of plans and  
4 going through the permitting process all over  
5 again.

6 I'm going to ask my colleague to  
7 identify, there are particular provisions in the  
8 new building code that are not from the '68 code,  
9 such as stairs, stairs enclosures, and things like  
10 that. Fatma?

11 FATMA AMER: Fatma Amer. It's  
12 actually one of the, as the Commissioner said,  
13 it's the stair enclosure. In the '68 code, you  
14 can have the stair enclosure most of the time  
15 according to the design, the stair enclosure and  
16 the elevator shaft are enclosed in what we call  
17 shear walls. Shear walls is taking all the weight  
18 foundation [pause] means in the new, in the 2008  
19 code this stair with that enclosure doesn't work  
20 anymore, 36 inch stair was permitted under the '68  
21 code, now it's 44 inch stair and when you're  
22 talking [off mic] stair, you have double stairs  
23 within the same enclosure, I mean that's a huge  
24 change. Means if this developer already on the  
25 second floor level or the third floor level, he

1  
2 has to knock it down all the way to foundation to  
3 rebuild his shear walls. I mean, basically, it's  
4 almost taking the building down and rebuild it  
5 from grate [phonetic].

6 CHAIRPERSON GARODNICK: Okay. So  
7 that sounds like it would be a rather significant  
8 cost. I've heard that if you do have any  
9 structure in place and you're taking it down, I  
10 mean, we're talking about tens of millions of  
11 dollars in some circumstances, is that fair?

12 COMMISSIONER LIMANDRI: Yes, that's  
13 fair and significant design modifications. So,  
14 for example, if you price the building according  
15 to a certain layout, as Fatma indicated earlier,  
16 and you needed to change that layout based on the  
17 wider stairs and the placement of the stairs, the  
18 building project might actually not work anymore  
19 in the way you--even with a reduced marketplace.

20 COUNCIL MEMBER GARODNICK: Let's  
21 say that there were some outstanding violations on  
22 the site or fines that were not paid. Would that  
23 be a requirement to deal with those issues before  
24 participating in the DOB's safety plan?

25 COMMISSIONER LIMANDRI: Well today

1  
2 you can actually go back to work unless you deal  
3 with your hazardous violations and hazardous  
4 conditions. We specifically look for what we call  
5 a Certificate of Correction, that Certificate of  
6 Correction is most important for you to go back to  
7 work.

8 The adjudication process, which I  
9 do not control, which is through the Environmental  
10 Control Board, is the one who actually levies the  
11 fine and that's how they actually pay the fine.

12 So one of my hesitations for  
13 talking about fines to be paid necessarily that  
14 there's a long process for the adjudication  
15 through ECB court, and that's not something that  
16 we've envisioned as long as they've taken care of  
17 the condition itself and certified correction to  
18 the Department.

19 COUNCIL MEMBER GARODNICK: I see,  
20 so because that element is outside of your control  
21 you don't envision that being part of the initial  
22 agreement between you and the developer in  
23 question.

24 COMMISSIONER LIMANDRI: Right, as  
25 long as they've actually corrected the conditions,

1  
2 we would allow them to go back to work.

3 COUNCIL MEMBER GARODNICK: Some  
4 reasonable questions have been raised by Council  
5 Member Fidler and Council Member Avella about  
6 these are rules that are on the books to keep the  
7 site safe. We're essentially saying to a  
8 developer, listen, we understand the situation  
9 that you are in for one reason or another, we will  
10 allow you to keep a permit if you do A, B, C, X,  
11 Y, and Z as prescribed by the Department of  
12 Buildings, and one of the points that you mention  
13 in your testimony was that the developer would  
14 need to submit maintenance reports to you to  
15 explain how exactly they are complying with those  
16 new requirements. Do you have the resources to be  
17 able to actually monitor and assume control over  
18 what they are sending to you? Because it seems to  
19 me that the same questions about, well, shouldn't  
20 you be out there inspecting the sites today and if  
21 they're dangerous, shouldn't you be issuing  
22 violations. The same questions could be raised  
23 about maintenance reports coming in to DOB from  
24 the folks participating.

25 COMMISSIONER LIMANDRI: Well I

1  
2 guess there's two things that I'd like to mention,  
3 one is that the idea of this bill requiring them  
4 to have a plan puts the onus on the contractor,  
5 but also the developer; that the developer needs  
6 to be more hands-on; that because the construction  
7 site is not active, they need to be watching and  
8 making sure that they're complying with certain  
9 statutes that already occur. There are times  
10 where the Department will go above and beyond and  
11 require them to do additional requirements that  
12 are not in the code when there's inactivity. So,  
13 for example, walking the site on a regular basis  
14 or doing certain types of maintenance activities  
15 on a crane, yes, that is in the code, but there's  
16 no one on the job site on a regular basis.

17 So each device needs to have a  
18 specific plan because it's not normal; you don't  
19 put up a hoist and never use it, you don't put up  
20 a crane and don't use it for three months. So we  
21 want the contractor to tell the developer, this is  
22 what I need in order to make sure that this will  
23 be operable. So that, I think, is one of the  
24 things that we may have missed earlier, which is  
25 those site specific plans, although they're

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

required, we need to make sure that they do.

The second part of your question was, will you have the ability to review, and we think that today based on the current numbers we would. It's most important to understand that we are going to be reviewing all of it for completeness and we will be spot checking it through quality assurance and inspections.

COUNCIL MEMBER GARODNICK: Okay.

My last question to you, and I know there are others, is we are, as Council Member Fidler and Avella pointed out, giving a benefit in exchange for an additional obligation--site-specific safety in exchange for the continuation of an existing permit. If we were to not do that today, what would be your concern, number one, about status quo? And two, if somebody simply wanted to perpetuate their existing permit, how much work do they actually need to do on the site to keep it live? Is that anything which is of real significance or is it possible that somebody, rather than participating in our program here, if we were to leave things as is, simply do a small change and say, look, this is not a stalled site

1  
2 at all, DOB, we are still working because we did  
3 something simple here. If you could just flesh  
4 out that point for us.

5 COMMISSIONER LIMANDRI: I think  
6 what'll end up happening is the public is going to  
7 be really concerned in two time frames. One is in  
8 the current timeframe, which is what you  
9 illustrated earlier is that the place is a mess,  
10 they're not maintaining it. So you're going to  
11 have residents picking up the phone and dialing  
12 311 in what I'll call a reactive mode, and then it  
13 forces us to react and then we have to find who  
14 the entity is who will answer our calls, we have  
15 to engage them and we have to get a resolution.  
16 The program the way it's set up is that we would  
17 have an emergency contact, if someone did call, we  
18 should be able to get it solved much more quickly.

19 The backend piece, as I'll call it,  
20 in several years from now you're going to have a  
21 bunch of sites that may be contested by the  
22 public, hey, this guy hasn't been working here for  
23 more than 12 months, I know he renewed his permit,  
24 but he's not valid, and now we are going to be  
25 saddled with making decisions about whether they

1  
2 were really truly active or not and we're going to  
3 have to send them to the Board of Standards and  
4 Appeals--again, not furthering the goal, which is  
5 a built building is better and safer and for a  
6 quality-of-life issue better than an unbuilt  
7 building or a half-built building. So it's this  
8 backend that we're going to have to deal with that  
9 no one is really thinking through, which is, what  
10 happens to a thousand buildings that their permits  
11 did actually get renewed by the developer and they  
12 went forward and started to go back to build, when  
13 in reality they were lapsed, they really did lapse  
14 for the 12 months and we have community members  
15 that are going to be able to point that out.

16 The Buildings Department today  
17 doesn't have a program to go out on every site and  
18 say, yes, you're furthering construction and prove  
19 it to me. I think the proving it to me is going  
20 to be the difficult part.

21 COUNCIL MEMBER GARODNICK: Okay.  
22 Well I thank you for those answers and I do take  
23 the points from my colleagues and if there are  
24 changes that would be appropriate here to put into  
25 the legislation as opposed to leaving to DOB

1  
2 rulemaking, I think that's a conversation we'll  
3 see what else comes out in the course of this  
4 hearing. But thank you.

5 CHAIRPERSON DILAN: Well then to  
6 that point, I'd like to add to the bill sponsor  
7 and to anyone wishing to amend if they could do so  
8 expeditiously 'cause the Committee is looking  
9 forward to move this item, and I would think that  
10 discussions would have to be had within the next  
11 couple of days, but--

12 COUNCIL MEMBER FIDLER:  
13 [Interposing] Mr. Chairman, did the Commissioner  
14 provide written a written copy of his testimony  
15 because--

16 CHAIRPERSON DILAN: Yes.

17 COUNCIL MEMBER FIDLER: --I didn't  
18 write down all the points that he had mentioned--

19 CHAIRPERSON DILAN: Yes, and I--

20 COUNCIL MEMBER FIDLER: --and I  
21 think that would be--

22 CHAIRPERSON DILAN: --believe the  
23 Sergeant is about to--

24 COUNCIL MEMBER FIDLER: Okay.

25 CHAIRPERSON DILAN: --give it to

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

you if he hasn't--

COUNCIL MEMBER FIDLER: Thank you.

CHAIRPERSON DILAN: --done so already. Just a little housekeeping, we've been joined very briefly by Council Member Comrie who's a member of the Committee, Council Member Tom White of Queens who is also a member of the Committee, Council Member Elizabeth Crowley of Queens who is also a member of the Committee, and Council Member Jessica Lappin of Manhattan.

So we have Council Member Vacca followed by Council Member Jackson.

COUNCIL MEMBER VACCA: Thank you, Commissioner, Mr. Chairman. You indicate in your testimony in paragraph four, this bill will not affect vesting for zoning purposes. The Board of Standards and Appeals is empowered under the zoning resolution to address vesting issues that could arise from stalled construction. Then in the last paragraph on page two, you state, stalled construction projects that had been filed under the 1968 building code would be required to re-file under the 2008 construction code. Do you find those two statements consistent? And I did

1  
2 not see anything in the bill that speaks to either  
3 one of these statements.

4 COMMISSIONER LIMANDRI: Well the  
5 zoning resolution, we're not affecting the zoning  
6 resolution with this bill. Anything that has to  
7 do with affecting the zoning resolution, as you  
8 know, goes through the ULURP process, so  
9 everything stands in zoning. So, for example, if  
10 you've put foundations in and you've vested and  
11 you haven't completed within two years, you, as an  
12 applicant, regardless of what you've done with the  
13 permit, right, you still have to go back to Board  
14 of Standards and Appeals and ask for an appeal of  
15 that and say, I want to continue, I need an  
16 extension to finish my construction. So there's  
17 no reason why through the process, if you have a  
18 zoning change, you don't get grandfathered because  
19 of a code and the provision of renewing a permit.

20 The thing is, is that the Buildings  
21 Department in our codes, our permits lapse because  
22 of a zoning change. We go out, we do an  
23 inspection, we say you're vested or you didn't,  
24 and based on that, the developer has the right to  
25 go to BSA if they disagree. What we're saying is

1  
2 is that if the zoning changes, your permit lapses,  
3 you don't get to be part of this program, right?  
4 You still have to go to Board of Standards and  
5 Appeals and say, I want to still vest under the  
6 zoning privilege, please excuse, I've spent--you  
7 know, a hardship case, I've already spent \$4  
8 million, I want to keep building, please.

9 COUNCIL MEMBER VACCA: Is that the  
10 case right now, Commissioner? Because as I said,  
11 I did not see this in the law. If you have a  
12 stalled site, we've had over 70 neighborhoods in  
13 this city down-zoned, if you have a stalled site  
14 and you put your foundation in the ground before  
15 the new zoning, and your stalled site is stalled  
16 for two years or more, then the Buildings  
17 Department considers your application to be under  
18 the old zoning because you stalled for two years?  
19 You get your foundation in under the wire before  
20 new zoning took effect and left the site.

21 COMMISSIONER LIMANDRI: Let's just  
22 back up, I don't want to confuse you or myself  
23 even. So if you've gone and you have vested under  
24 the old zoning and you have a building permit to  
25 build. Under this program you have, because

1  
2 you've already vested, we've already gone through  
3 the process with you, right? You've already  
4 vested, we've already gone through the process  
5 with you, what we're saying is you can continue to  
6 build because you've already vested.

7           The only time where this common  
8 [phonetic] comes into play is when there's a new  
9 down-zoning that occurs during this period of  
10 time, that's when it changes. Okay? Because if  
11 you're in a new cycle and you have done a down-  
12 zoning, right now, say today we pass some down-  
13 zoning, we have to go out and we have to make sure  
14 that you vested. It doesn't affect the vesting  
15 process at all.

16           COUNCIL MEMBER VACCA: Then these  
17 two points are moot, because basically it  
18 grandfathers in, I would say everybody.

19           But all right, let me move on to  
20 the next point 'cause I don't know if this law  
21 relates to that question, I just thought that  
22 those two points were inconsistent and I think  
23 that I'm still not clear, so it would have to be  
24 site by site.

25           You have 400 sites in the city that

1  
2 are now stalled? Can I have a list of those sites  
3 that you consider stalled in my district?

4 COMMISSIONER LIMANDRI: Why don't  
5 you go on the Web?

6 COUNCIL MEMBER VACCA: It's on the  
7 Web?

8 COMMISSIONER LIMANDRI: It's on the  
9 Web, mm-hmm.

10 COUNCIL MEMBER VACCA: Under  
11 stalled sites.

12 COMMISSIONER LIMANDRI: You go  
13 under, on the left side you go to publications,  
14 you click down to--you pull it up, it says  
15 Reports, you click Reports, it shows you, there's  
16 a bunch of different reports there, you'll see a  
17 stalled sites report.

18 COUNCIL MEMBER VACCA: Okay.

19 COMMISSIONER LIMANDRI: And you can  
20 download it, it's in Excel, you can do whatever  
21 the hell you want with it.

22 COUNCIL MEMBER VACCA: Okay. Intro  
23 1015 would encourage where work has been suspended  
24 property owners to have come forward. We're not  
25 requiring property owners to come forward, we're

1  
2 saying that where work is stalled, we are  
3 encouraging you and the incentive for your being  
4 encouraged is that when you resume work, the  
5 paperwork you have to do will be less, basically.  
6 That's--

7 COMMISSIONER LIMANDRI:

8 [Interposing] It's not just paperwork, you--yes.

9 COUNCIL MEMBER VACCA: All right.

10 Right now, if a permit is expired, right now, if a  
11 permit is expired right now and no work is taking  
12 place, there is no violation issued by DOB, am I  
13 correct?

14 COMMISSIONER LIMANDRI: If there's  
15 no permit and no work is being taken, we don't go  
16 out, we don't issue a vio.

17 COUNCIL MEMBER VACCA: You don't.

18 COMMISSIONER LIMANDRI: Correct.

19 COUNCIL MEMBER VACCA: Even if  
20 there is an instance where someone says, I have an  
21 abandoned property next to me, but I went on the  
22 BIS system, the permit has expired, Buildings does  
23 not issue a violation for expired permits, they'll  
24 tell you no work is taking place, the permit  
25 expired, so it expired.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COMMISSIONER LIMANDRI: Right.

COUNCIL MEMBER VACCA: Okay. You can withhold permits now if there is a stop work order, am I correct? While there is a stop work order, do you allow, on stalled sites, the permit process to continue because basically those permits will allow the stop work order to come off?

COMMISSIONER LIMANDRI: Yes, of course.

COUNCIL MEMBER VACCA: Okay. You did not talk about a Certificate of Occupancy as part of the agreement a stalled site contractor would have to fulfill. I would like to suggest that any agreement entered into by a stalled site contractor include the requirement that he obtain a Certificate of Occupancy. I have new buildings in my district that are finished and people are living there and they never got a Certificate of Occupancy. They get a violation, they pay \$250, and they still have no Certificate of Occupancy. And if we're talking about safety of new construction, I don't understand how we allow people to occupy newly constructed buildings and a

1  
2 Certificate of Occupancy is never obtained. So I  
3 would like that to be a requirement of any type of  
4 agreement and I would suggest that we add this to  
5 the legislation.

6 Also, and this may not sound major  
7 to you, but I did notice here that your agreement  
8 with the developers does not include that they  
9 maintain their fencing and the site free of  
10 graffiti, and I would like that added. We have  
11 many construction sites where it's abandoned, the  
12 fencing is full of graffiti, and that represents  
13 an eyesore to residents on the block. So I would  
14 suggest that we add to the bill that the site be  
15 maintained as a graffiti-free site.

16 Thank you, Mr. Chairman.

17 CHAIRPERSON DILAN: Thank you,  
18 Council Member Vacca. I also have a copy of the  
19 stalled sites, we'll pass it around for Committee  
20 members to peruse at their leisure.

21 Council Member Jackson and then  
22 he'll be followed by myself.

23 COUNCIL MEMBER JACKSON: Thank you,  
24 Mr. Chair. Good morning, Commissioner and Deputy  
25 Commissioner.

1  
2 Just a question concerning the  
3 power of the Commissioner to continue and renew  
4 permits that have expired. I believed, I'm not  
5 clear as to the testimony, how many renewals or an  
6 extension of permits that have expired can you go?  
7 Is that up to four years I believe I heard?

8 COMMISSIONER LIMANDRI: With this  
9 new legislation for stalled sites, yes.

10 COUNCIL MEMBER JACKSON: Okay. And  
11 currently, Commissioner, what is it right now? If  
12 any at all.

13 [Pause]

14 COMMISSIONER LIMANDRI: I'm sorry,  
15 you mean like a regular permit?

16 COUNCIL MEMBER JACKSON: Well--

17 COMMISSIONER LIMANDRI: I'm sorry,  
18 could you just rephrase the question?

19 COUNCIL MEMBER JACKSON: Well the  
20 permits on a construction site for a stalled site  
21 or any site, but this is concerning stalled.

22 COMMISSIONER LIMANDRI: If they are  
23 furthering construction, we will renew the permit.

24 COUNCIL MEMBER JACKSON: Okay. But  
25 on a stalled site, for example, I know I e-mailed

1  
2 my staff member, she went online, there's three  
3 sites in my district. And so if you were  
4 authorized under this bill to renew permits that  
5 have expired at stalled sites, how many years or  
6 what is the timeframe for each extension--is it  
7 six months, three months, a year--and how long can  
8 you go?

9 COMMISSIONER LIMANDRI: No, that's  
10 a good question. The permit renewal or the  
11 installation of allowing them to renew their  
12 permit, it really is tied to their insurance  
13 policy.

14 COUNCIL MEMBER JACKSON: Okay.

15 COMMISSIONER LIMANDRI: Okay? So  
16 the insurance policy typically goes for a year, it  
17 could go for shorter, it could go for longer,  
18 depending on the contractor, but what we're saying  
19 is that at the end of the day it would not go for  
20 longer than, and we put it in, I believe in the  
21 bill, it comes to two time extensions. Just let  
22 me check.

23 [Pause]

24 COMMISSIONER LIMANDRI: So it says  
25 in the bill, it actually says on the last

1  
2 paragraph that a site shall remain in effect until  
3 the end of the term for which they were issued and  
4 may be renewed up to two additional terms. So the  
5 term typically from the Buildings Department is  
6 the permit can be issued for up to two years,  
7 which you add, it's four, but if he doesn't have  
8 insurance, and he doesn't keep it maintained, it  
9 could lapse, but that's his issue, not mine.

10 COUNCIL MEMBER JACKSON: Right, but  
11 based on what I heard in your response to some of  
12 my colleagues, as soon as a developer has no  
13 insurance, that permit expires immediately, is  
14 that correct?

15 COMMISSIONER LIMANDRI: That's  
16 right.

17 COUNCIL MEMBER JACKSON: Yeah,  
18 okay. Now just one little quick question, and  
19 then--

20 CHAIRPERSON DILAN: [Interposing]  
21 If I could stay with that, please.

22 COUNCIL MEMBER JACKSON: Sure, go  
23 ahead, Mr. Chair.

24 COMMISSIONER DILAN: Just because  
25 now the term here you said additionally is the

1  
2 time period defined by term is two years, is that  
3 what you're saying?

4 COMMISSIONER LIMANDRI: The code  
5 allows for the Buildings Department to issue a  
6 permit up to two years.

7 CHAIRPERSON DILAN: Up to two  
8 years, so then the language states for two  
9 additional terms, that means the maximum a  
10 developer could have under this program would be  
11 six years, is that accurate? I'm trying to get--

12 COMMISSIONER LIMANDRI:  
13 [Interposing] If they already have an existing  
14 permit, is that what you're saying?

15 CHAIRPERSON DILAN: Yeah, if they  
16 have an existing permit and then they get a break  
17 for two additional terms, I want to know how long  
18 a period is that it.

19 COMMISSIONER LIMANDRI: What we  
20 could do is we could maybe run some reports and  
21 figure out for you how many permits lapse and we  
22 can try to give you a sense of that.

23 CHAIRPERSON DILAN: Yeah, I really--  
24 -

25 COMMISSIONER LIMANDRI: Sure.

CHAIRPERSON DILAN: --would like to know the time period--

COMMISSIONER LIMANDRI: Okay.

CHAIRPERSON DILAN: --of what a term is as defined in this legislation that's silent on time period.

Excuse me, Council Member Jackson, you have the--

[Crosstalk]

COMMISSIONER LIMANDRI:  
[Interposing] No, but I think it's a good point, we should get you that information.

COUNCIL MEMBER JACKSON: Yeah, I guess my final question is what is--how do you determine a stalled site or where someone says listen, how do you determine it and how do you find that out? Is it a certain period of time where there's no activity, you know?

COMMISSIONER LIMANDRI: Well right now we are basically taking lists and driving throughout the city, we show up at a job and we see if there's anyone on the job site and see if there's activity, and that becomes our proactive way to find them. Then we reach out to the owner,

1  
2 we ask them if they have intentions to move  
3 forward or not. There's no incentive today so  
4 they either tell us yes or no. And what the  
5 problem with that program is, one, I have to find  
6 them and two is to determine if they have any  
7 intention. They may be waiting on a delivery,  
8 they may not be; they may be waiting three more  
9 months because in three months they're waiting for  
10 the market to turn, I have no way to know.

11 So it really becomes two pieces:  
12 one, I see inactivity and, two, I'm reaching out  
13 to them and asking them what their intention is.

14 COUNCIL MEMBER JACKSON: Okay.  
15 Yeah, I was wondering whether or not there was a  
16 minimum period of time of no activity to be  
17 determined a stalled site, do you know what I  
18 mean?

19 COMMISSIONER LIMANDRI: Yeah, I  
20 think what we are hoping is that we're going to  
21 see people just come in and say, I am stalled and  
22 confirm.

23 COUNCIL MEMBER JACKSON: Right.

24 COMMISSIONER LIMANDRI: But I would  
25 think that 30 days where there's no activity seems

1  
2 to me that something's wrong with the job and that  
3 would be sort of a cursory sort of time period  
4 that we would use as an indicator.

5 COUNCIL MEMBER JACKSON: Now this  
6 question, the last question, it goes to the  
7 permits that are posted up on construction sites  
8 or developed sites and this is, I guess, a  
9 question not only for a stalled site, but also an  
10 active site. Permits have to be posted and  
11 updated, is that correct? So, for example, I was  
12 campaigning for reelection at a subway and one of  
13 my constituents said, what's happening with this  
14 project, it has permits that have expired like  
15 December 31st, 2008, and there's no up there. And  
16 so I went over there afterwards, and I saw them  
17 all listed there, but I don't see updated permits.  
18 Who is required to post these permits and whether  
19 or not it's a stalled site or an active site?

20 COMMISSIONER LIMANDRI: They would  
21 be required to post all the permits, just as if  
22 they were an active construction site. The reason  
23 why we're asking for a maintenance plan is we want  
24 someone to go there, we want them to do a visual,  
25 we want them to make sure, and one of those things

1  
2 would they would be required to continue to post  
3 the permits.

4 COUNCIL MEMBER JACKSON: And so  
5 it's developers obligation to post current  
6 permits?

7 COMMISSIONER LIMANDRI: The  
8 applicant of record.

9 COUNCIL MEMBER JACKSON: The  
10 applicant of record.

11 COMMISSIONER LIMANDRI: Mm-hmm.

12 COUNCIL MEMBER JACKSON: Okay. And  
13 if not, what if just on a continuous basis they've  
14 failed to maintain up-to-date permits? Where  
15 constituents are walking by and they see, hey, all  
16 of these permits have expired. What do we do  
17 about that, if at all?

18 COMMISSIONER LIMANDRI: Is your  
19 question that they fail to post it or they fail to  
20 actually renew the permit?

21 COUNCIL MEMBER JACKSON: We don't  
22 know, all we know is--

23 COMMISSIONER LIMANDRI:  
24 [Interposing] Well if you go to the Internet, if  
25 you pulled the own Internet, you would see that.

1

2

COUNCIL MEMBER JACKSON:

3

[Interposing] Yeah, but I think that the point

4

that I'm getting at, Commissioner, is that

5

constituents are not necessarily going to go to

6

the Internet. I think there should be an

7

affirmative obligation to have up-to-date permits

8

and posted by, if I'm the owner of the site.

9

COMMISSIONER LIMANDRI:

10

[Interposing] Well it is a violating condition not

11

to post the appropriate signage or permits on the

12

job site and we would write a vio.

13

COUNCIL MEMBER JACKSON: Okay. But

14

in essence, I'm going to ask one of my staff

15

members to go online to see if there's a current

16

permit and maybe just ask the owner if--we would

17

know if it's active or not as far as the current

18

permit, but if there's no current permit, then, in

19

essence, that's a violation? And I'm not really

20

trying to pursue violations, I'm just trying to

21

pursue to make sure that they have up-to-date

22

permits more so than pursuing violations, you

23

know?

24

COMMISSIONER LIMANDRI: Well you're

25

absolutely right, you know, you walk by some

1  
2 construction sites, they do a really good job, and  
3 you out by others and they don't. You're  
4 maintaining them and etc.

5 COUNCIL MEMBER JACKSON: Okay,  
6 thank you. Thank you, Mr. Chair.

7 CHAIRPERSON DILAN: Okay, thank  
8 you, Council Member Jackson. I have you down for  
9 questioning Council Member Lappin. I'm going to  
10 ask a few questions now and then you will follow  
11 me and then after you, will be Council Member  
12 Mendez and then White.

13 I think a lot of my colleagues have  
14 asked a lot of the questions that I was going to  
15 ask at the outset, but I see this bill, just  
16 generally as a bill that has an outcome on the  
17 economic impact of the private sector of this  
18 city, and that includes the developers and it  
19 includes labor.

20 I think some of the things that I  
21 think, and I say I think 'cause they may  
22 understand it, but I think that we've struggled  
23 with here is the impact of allowing buildings into  
24 this program where one set of buildings was  
25 constructed under the new code, if those permits

1  
2 lapse and they're not in this program and they  
3 stalled or abandoned, they didn't join the program  
4 then they have to build now a new facility under  
5 the new codes that we've passed, that's correct,  
6 right?

7 COMMISSIONER LIMANDRI: That's  
8 correct.

9 CHAIRPERSON DILAN: So if they are  
10 a part of this program and they started their  
11 building under the 1968 codes and they join this  
12 program, they become active again, then they can  
13 continue to construct under the 1968 codes.

14 COMMISSIONER LIMANDRI: That's  
15 right, the idea is for them to be able to notify  
16 the Department that they're going to go back to  
17 work and then they're good to go.

18 CHAIRPERSON DILAN: Okay. Then the  
19 other question, the other kind of general, I think  
20 things that weren't totally understood maybe by me  
21 or my committee members is that what happens if we  
22 didn't do this, and I believe Council Member  
23 Garodnick touched on this, if we didn't do this, I  
24 think for unbuilt buildings, that's fine, you have  
25 a condition that's there and it's not as much of a

1  
2 blight, but what happens if we didn't do this  
3 legislation. And I don't think there is a--it's  
4 not a developer's right to have this legislation,  
5 I agree with that, but if we didn't do this  
6 legislation, what's the impact on the developers  
7 and what's the impact on the community absent this  
8 legislation?

9 COMMISSIONER LIMANDRI: Well from  
10 the community's perspective, they're going to rely  
11 on the city to do a lot of due diligence, to go  
12 find them, and to track them and watch them, and  
13 it's going to be a drain on resources for this  
14 Department to chase after these contractors and  
15 developers in order to maintain their properties.

16 The way we see the legislation from  
17 the community's perspective and ours is using city  
18 resources appropriately, making sure that the onus  
19 and the responsibility, which is on the developer  
20 and the contractor, that they take affirmative  
21 steps and they announce to the city what they're  
22 going to do. And then therefore the city can  
23 focus its resources, its limited resources on the  
24 people who don't comply and the people who are not  
25 doing the right thing.

1  
2           The flip on the other side is on  
3 the developer, I think we are all concerned that  
4 we are going to have neighborhoods that are going  
5 to have half built construction projects from now  
6 for the next five or six years. If there's any  
7 way to move and motivate a new developer or the  
8 existing developer to get that project to closure,  
9 we would want to do that. If the '68 code did not  
10 go into effect, and the 2008 code did not go into  
11 effect, it probably would not be as compelling of  
12 an argument on that side.

13           But we realize that we have a  
14 strong incentive to encourage developers to be  
15 upfront, be accountable, take the measurements  
16 appropriate, do the right thing on the job site,  
17 do the right thing for your community, and allow  
18 the city to be able to come back quicker than it  
19 would otherwise.

20           CHAIRPERSON DILAN: And so the  
21 major benefit you see then that helps your agency,  
22 that's what I heard most, is that should a  
23 developer decide to comply with this new program,  
24 the benefit that they get immediately is they get  
25 the extension of their permit for a specified

1  
2 period of time--and that time will be defined when  
3 you guys give me the answer to what the definition  
4 of a term is--and then that will give them the  
5 right to not have their permit expire and to  
6 continue construction. So if they didn't do that,  
7 you would still then have to go out--say this  
8 program doesn't exist and a site is stalled, it's  
9 still the responsibility of the Department to  
10 basically stay on top of these guys, but now  
11 instead of the Department going out and having to  
12 find 600 stalled sites, say you get 80% of them to  
13 come into you and say, we want to comply with this  
14 program and in exchange we'll take the benefit, is  
15 that basically what you're saying?

16 COMMISSIONER LIMANDRI: That's  
17 right, and there is this ebb and flow in the  
18 credit markets, we all realize that. So things  
19 people are looking up today, six or seven months  
20 from now we could have another dip. And there's  
21 going to be this ebb and flow of construction  
22 projects that are going to come in and out of the  
23 program, and I just think that it would be better  
24 if we got developers to have a strong incentive to  
25 do the right thing.

1  
2 CHAIRPERSON DILAN: I would think  
3 it's easier to have a developer come in and state  
4 that they are slowed down or stalled and they come  
5 in and communicate with the city, it's easier for  
6 us to stay on top of it in that regard. But how  
7 then would the city differentiate from a suspended  
8 site to an abandoned site?

9 COMMISSIONER LIMANDRI: Well--

10 CHAIRPERSON DILAN: Under the  
11 program.

12 COMMISSIONER LIMANDRI: --under the  
13 program, if a site does not come into the program--  
14 -if you're in the program, you've come to us and  
15 you told us that you are stalled. But if you  
16 haven't come into the program and a 311 caller  
17 picks up the phone and calls us, we're probably  
18 going to start to look at it differently because  
19 we're going to say, well they didn't come into the  
20 program, why is that; we reach out to the  
21 developer, maybe he does respond, maybe he doesn't  
22 respond, we'll be able to look at them differently  
23 because they're--

24 CHAIRPERSON DILAN: [Interposing] I  
25 would think that, again, it's the developer's

1  
2 right to join the program or not join the program,  
3 I would think that just because a developer  
4 decides not to join the program doesn't actually  
5 mean that they've abandoned the site. So I don't  
6 think we should treat anyone differently under the  
7 current conditions if they don't join the program.  
8 However, I do think that the ones that do come  
9 forward and comply should receive some sort of  
10 reward and they receive that reward by coming in  
11 and joining the program in terms of getting the  
12 extended permits.

13 So, again, then under the program,  
14 how would you determine abandoned or suspended?

15 COMMISSIONER LIMANDRI: Well under  
16 the program, if they're abandoned, they would not  
17 be in the program, we would have to go out, we  
18 would have to go numerous times, we'd have to  
19 reach out and find out, if they're not maintaining  
20 their site, it's going to become a problem for  
21 this Department to maintain.

22 CHAIRPERSON DILAN: Okay. I'll  
23 leave the questioning there, but I do think that  
24 someone may come in and join your program and say,  
25 hey, we're suspended, they won't be able to obtain

1  
2 credit, they won't be able to resell the property  
3 to another entity whether the bank steps in, and  
4 at some point, even if they're in your program,  
5 they may become abandoned. So I would like to at  
6 some point know what classifies that property as  
7 being abandoned. They shouldn't be considered  
8 suspended just because they join the program, they  
9 can also abandon after joining the program so--

10 COMMISSIONER LIMANDRI:

11 [Interposing] Oh, I'm sorry, I see what your point  
12 is. Yeah, if they're abandoned, it'll be easy to  
13 figure that out because they're going to stop  
14 sending us reports and they're going to stop  
15 complying with the plan that they gave us. We  
16 sort of send them out, we say, okay, you're a  
17 stalled site, give us a safety plan. They say,  
18 for example, we're going to go there once a month,  
19 we're going to check this, this, and this, and  
20 we're going to maintain.

21 CHAIRPERSON DILAN: I guess the  
22 overall concern there is somebody that knows that  
23 they're going to abandon their site at the outset,  
24 or maybe they don't know, they could come in, say  
25 we'll go forward, we'll comply with this program,

1  
2 we'll get potentially six years where we don't  
3 have to do anything with this site, then say after  
4 a year they let everything go, you know--

5 COMMISSIONER LIMANDRI:

6 [Interposing] Well then they--

7 CHAIRPERSON DILAN: --we have to be  
8 careful there.

9 COMMISSIONER LIMANDRI: Well  
10 absolutely and then they don't get that status.

11 CHAIRPERSON DILAN: So you can  
12 revoke the status, is that--

13 [Crosstalk]

14 COMMISSIONER LIMANDRI:  
15 [Interposing] Yeah, because if we can show that  
16 they came up with a plan and they didn't commit  
17 and follow through on the plan, then we would  
18 consider them not a stalled site and an abandoned.

19 CHAIRPERSON DILAN: Okay. And how  
20 would a site then apply for inclusion in this  
21 proposed program?

22 COMMISSIONER LIMANDRI: We would  
23 expect them to go ahead and file a document, which  
24 is much like a safety plan that we take in today,  
25 it would be required for us to put it on our

1 building information system so that it's recorded.  
2 It would come probably with a site plan, much like  
3 we do for site safety plans today, which is a  
4 large scale schematic which describes the site,  
5 the conditions, and also identifies the monitoring  
6 that they plan to do, it'll show any permanent or  
7 semi-permanent equipment such as hoists, cranes,  
8 any of that kind of equipment that is fixed to the  
9 site; it would also tell us the status of how  
10 high; what they've completed; what isn't  
11 completed. For example, if they're up to the  
12 third floor in concrete, but it is unenclosed or  
13 if its foundation walls and braced or if it's--you  
14 know, those types of statuses.

16 COMMISSIONER DILAN: Okay.

17 COMMISSIONER LIMANDRI: We'll have  
18 to come up with basically a sort of a checklist  
19 way for them to easily identify so we can put them  
20 in categories and sort them.

21 CHAIRPERSON DILAN: Okay. If a  
22 project is removed from the program for  
23 noncompliance or say voluntarily exits the program  
24 because it can resume work, well I would imagine  
25 for the second, let's move noncompliance aside for

1  
2 a second. If a project voluntarily exits the  
3 program, can that site later reenter and decide to  
4 participate in the program, assuming compliance,  
5 should further complications arise?

6 COMMISSIONER LIMANDRI: I don't see  
7 why not as long as it's within the timeframe.

8 CHAIRPERSON DILAN: And obviously  
9 ones that have been removed for noncompliance  
10 would not be permitted to reenter the program?

11 COMMISSIONER LIMANDRI: That's  
12 correct.

13 CHAIRPERSON DILAN: Okay. Can you  
14 share with the Committee any additional terms and  
15 conditions you may decide through the rulemaking  
16 process a developer should follow to be in the  
17 program?

18 COMMISSIONER LIMANDRI: Nothing at  
19 this time.

20 COMMISSIONER DILAN: Not at this  
21 time, so you're not going to give us kind of a  
22 roadmap or guideline as to how you intend to  
23 promulgate this program?

24 COMMISSIONER LIMANDRI: Well I can,  
25 sure I can illustrate that if you'd like. What we

1  
2 see happening is us doing an outreach campaign  
3 where we will reach out to, we'll most likely--we  
4 do through our information system will identify  
5 the list of permits that are possibly eligible, we  
6 would go forward, anyone that we've already been  
7 in contact with we would give them the FAQs to the  
8 program, and then we would give them a--on the  
9 website there'll be a downloadable filing which  
10 will illustrate for them the specific information  
11 we need--the name and the address, the emergency  
12 contact information. We'll ask them to illustrate  
13 for us in an easy format what status of  
14 construction they are in. For example, whether  
15 they're in excavation superstructure or they're in  
16 final fit-out, we'll ask them to submit with that  
17 document and we'll lay out for them how large that  
18 is, but it'll have to tell us what other  
19 associated equipment such as hoists and cranes.  
20 Then they will also give us a large-scale format  
21 drawing which will identify the zones, where it's  
22 protected by the public, are there any trailers,  
23 for example, on the sidewalk--those types of  
24 things, and then they'll have to come in and walk  
25 us through the plan. And once we go through the

1  
2 plan and we deem it accepted, it'll also--I  
3 neglected to say, it'll talk about what they  
4 suggest the frequency of inspections is and by who  
5 it will be done by. So we don't want to--we as  
6 the Department don't want to deal with 5 people or  
7 10 different contractors from the jobsite, we want  
8 to deal with one contact individual that will be  
9 taking responsibility for making sure those  
10 inspections do occur, filing the jobs, and filing  
11 the related paperwork and then they'll file that  
12 with the Department. Most likely we'll scan those  
13 reports and have them on file at the Department.

14 And we will do it most likely  
15 through a central group as opposed to by borough.

16 CHAIRPERSON DILAN: Okay. My final  
17 question before we go to Council Member Lappin is,  
18 would a project have to suspend in order to  
19 participate in the program or could a developer  
20 seek inclusion in the program if suspension is  
21 possible or imminent?

22 COMMISSIONER LIMANDRI: I'm sorry,  
23 could you just slow down and say it one more time?

24 CHAIRPERSON DILAN: Basically,  
25 would a project have to suspend work in order to

1  
2 be included into the program, but if a developer  
3 knows that some problems are ahead and a  
4 suspension of work is possible or imminent, could  
5 they apply to the program?

6 COMMISSIONER LIMANDRI: Yeah, I  
7 mean, certainly they could apply, but we're not  
8 going to consider them to be suspended. So if  
9 they want to go through the process, if they're  
10 engaging, we have had contractors come and say,  
11 you know what, in four months we're not going to  
12 move forward, we're going to start to what they  
13 call button up the site, they'll actually come in  
14 and they'll start to talk to us, okay. So these  
15 are the developers that we and contractors we like  
16 to deal with. They come in and they say we're  
17 going to leave a hole in the ground, we say you're  
18 not, they said, we just want to brace it, and then  
19 we have a discussion about how they're going to  
20 brace it--those are the kinds of things that  
21 happen on a regular basis. My sense is that the  
22 people we're trying to reach out to that are going  
23 to be less cooperative, we will have to move  
24 through the process and they will probably already  
25 be stopped, but we would anticipate that we would

1  
2 actually have to confirm that they're stopped  
3 before we grant them to be in the program.

4 CHAIRPERSON DILAN: Okay. And then  
5 I know I said one, but I do have to add this,  
6 would the developer then have to demonstrate that  
7 the need for the suspension is due to the economy  
8 and not because of, say, construction flaws? Or  
9 any other--

10 COMMISSIONER LIMANDRI: We did not  
11 envision them giving us proof of contracts or  
12 anything like that. If they chose to stop the  
13 job, we did not look anywhere past, the developer  
14 basically sends us an affidavit and says, I'm  
15 going to stall the construction project due to  
16 economic conditions.

17 CHAIRPERSON DILAN: All right, so  
18 then they would have to demonstrate that it's the  
19 economy that has basically led to the suspension  
20 or is that not what you're saying?

21 COMMISSIONER LIMANDRI: I'm not  
22 saying that they have to demonstrate, I just said  
23 that they would tell us that they would give us an  
24 affidavit.

25 CHAIRPERSON DILAN: They verbally

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

tell you that.

COMMISSIONER LIMANDRI: No, they would give us an affidavit and they'd say, due to economic conditions we are going to hold off and we are going to stall the site.

CHAIRPERSON DILAN: Okay. So then the only way you can enter is through some sort of affidavit, but the only entry into this program is due to the economy and nothing else?

COMMISSIONER LIMANDRI: That's correct.

CHAIRPERSON DILAN: Okay. Thank you. Council Member Lappin.

COUNCIL MEMBER LAPPIN: Thank you, Chair Dilan. Commissioner, how are you? Fatma, nice to see you.

I apologize, I have a bill that's being heard in the next room, so I've been in and out, so I hope I'm not covering ground that you've already covered, but I wanted to just understand logistically what the impacts of this bill would be on sites around the city. And I sort of think of it in two ways: the people who will voluntarily join the program and the people who won't.

1  
2 So let's, for the first case,  
3 people who voluntarily join the program have the  
4 wherewithal and the resources to some extent to do  
5 that, to come up with a plan for you and maintain  
6 the sites. One question I had--and I went through  
7 this with 959 1st Avenue--is sometimes they're not  
8 issues that are within the DOB's control. For  
9 example, the sidewalk issue, which you mentioned  
10 in regards to the Crown Heights Lefferts Avenue  
11 building, where you said you were able to get the  
12 proper fence, move the trailers and get a new  
13 sidewalk put in, and that's exactly what we had at  
14 959 1st Avenue, but DOT is really the one that  
15 deals with the sidewalk, but it's all intertwined,  
16 right? I mean nobody's sort of working in a  
17 vacuum. So this bill, I don't think addresses  
18 that and I just wanted to ask, so logistically how  
19 does that work when a property enters your  
20 program, but then there are other agencies we have  
21 to deal with to actually get a new sidewalk put  
22 back in?

23 COMMISSIONER LIMANDRI: Well there  
24 are a couple of things that we're going to  
25 require: one is that we want them to show us the

1  
2 site plan and we'll have to do an inspection. If  
3 we go out and we see that the sidewalk is not fit  
4 for use or they submit a plan that shows that  
5 they're going to continue to occupy the sidewalk,  
6 we might push back and say look, you have to make  
7 the sidewalk clear and it has to be usable and it  
8 has to be appropriate. So they would go off, go  
9 to DOT, get the sign-off from DOT, make the  
10 sidewalk, and then we would come back and say,  
11 okay, you can come into the program now 'cause you  
12 addressed the issue. So--

13 COUNCIL MEMBER LAPPIN:

14 [Interposing] But can--I guess my question is can  
15 you force them to do that? DOT says we've given  
16 them this permit for a temporary sidewalk, as on  
17 1st Avenue, they're in the street, they've taken a  
18 lane of traffic even though it'll be a couple of  
19 years before they start back up and DOT says until  
20 Con Ed signs off on the vaults and this, that, and  
21 the other thing, we're not going to take this  
22 permit away.

23 COMMISSIONER LIMANDRI: Well I

24 think it's a valid question because is it  
25 trailers, is it a crane, is it a vault problem? I

1  
2 mean, it's going to be site-specific and, no, it  
3 won't be one-size-fits-all and the Department of  
4 Buildings can't force necessarily some of those  
5 issues to fruition, but certainly we can look at  
6 it on a case-by-case basis.

7 COUNCIL MEMBER LAPPIN: I guess  
8 that's something I'd like to sort of think about  
9 and talk about a little bit more because you guys  
10 could be great and say, we're going to help you  
11 with this and then another city agency says, we're  
12 not going to be great and then the bill doesn't  
13 help us, right, the program doesn't help us.

14 So that was sort of one question  
15 that I had, but then the other question is for the  
16 folks who don't have the resources to join the  
17 program, they simply say, you know what, we'd love  
18 to put this sidewalk back, right, we'd love to do  
19 these other things, but it's going to cost  
20 \$200,000 and we don't have the financing and we  
21 can't join the program even though we'd like to.  
22 Then you have the sites that are not in the  
23 program and they're unsafe or they're not in the  
24 program and it's really a nuisance issue. So in  
25 those two instances, what does the agency then do?

1  
2                   COMMISSIONER LIMANDRI: Well in  
3 your first category, I want to do something, but I  
4 have no money, the Department is not going to  
5 expend city resources for that.

6                   The second is I'm not in the  
7 program, I have no intention of being in the  
8 program, and there's an unsafe condition, as you  
9 know, the Department can direct HPD, and we've  
10 done this before, to backfill sites, etc.

11                  COUNCIL MEMBER LAPPIN: So in the  
12 first instance, we're screwed basically, right?  
13 Like if the developer can't afford to do the  
14 things that this bill would require them to do and  
15 they're not safety issues, then the community has  
16 to live with the site.

17                  COMMISSIONER LIMANDRI: Well the  
18 one thing that I think you overlook is that they  
19 came and they told us, you know, part of this cat  
20 and mouse game that we're playing is that they're  
21 trying to pretend like they're not stalled. I  
22 mean, you know, this is a huge win for the  
23 Department and the city to know that they say  
24 they're stalled and the Department can put them on  
25 their radar. Quality-of-life issues that we're

1 talking about certainly are a different animal.

2 But from our perspective we're  
3 going to first start with safety and to the extent  
4 we can work with elected officials or whoever to  
5 pressure developers to do the right thing for the  
6 neighborhood is something else.  
7

8 COUNCIL MEMBER LAPPIN: Right, and  
9 I'm not saying that this isn't helpful, I'm just  
10 saying that, well, I said screwed because quality-  
11 of-life means a lot of things, that doesn't mean  
12 that the balcony is falling off the building or  
13 that there are bricks falling on the sidewalk, but  
14 it can mean that you've got sidewalk sheds and  
15 scaffolding that's a mess and lighting that isn't  
16 there and stagnant water and homeless people who  
17 are sleeping there and potholes and a sidewalk  
18 that's not walkable for people in the  
19 neighborhood, right. So it's not safety, and it's  
20 not, but for the people who live nearby, that has  
21 become an eyesore and a real detriment to the  
22 neighborhood, and in those instances usually the  
23 developer is not going to have the wherewithal to  
24 join your program and then there's not much we can  
25 do but pressure them and give them a hard time and

1  
2 work together to do that.

3 COMMISSIONER LIMANDRI: Well, you  
4 know, you had a site in your own district that  
5 basically Fatma had to strong-arm the attorney. I  
6 mean these are tough times and as much as--

7 COUNCIL MEMBER LAPPIN:  
8 [Interposing] And I'm appreciative, I'm  
9 appreciative.

10 COMMISSIONER LIMANDRI: No, and she  
11 did a great job doing that.

12 COUNCIL MEMBER LAPPIN: You did a  
13 great job and we worked together to do it and  
14 that's what frustrated me that we didn't have more  
15 tools to force them, other than Fatma being a  
16 dynamo. So that's sort of my only--I wish there  
17 was a little more we could do in those instances.

18 COMMISSIONER LIMANDRI: Well I just  
19 look at it as this is a step in the right  
20 direction. Listen, raising standards on  
21 construction sites is something that we're working  
22 towards and we're doing something about and I  
23 would just go down the road of we're going to try  
24 this and we're going to do it and then if we find  
25 that we need to do something else about these

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

recalcitrant owners, we might do that and--

COUNCIL MEMBER LAPPIN:

[Interposing] And you're not going to be afraid to really take their permits away. If they don't join the program and they are stalled for the period of time under the current law, you'll take their permits away.

COMMISSIONER LIMANDRI: That's--

COUNCIL MEMBER LAPPIN: Right?

COMMISSIONER LIMANDRI: --the idea.

That's the whole thing, you've got to say you're going to do something, right, and do it. So I don't have any problems with following the code and making sure that they understand that they have to hold up their end of the bargain.

COUNCIL MEMBER LAPPIN: Okay.

Thank you very much, Mr. Chair.

CHAIRPERSON DILAN: Council Member

Mendez, followed by White. And then we'll wrap up the questioning.

COUNCIL MEMBER MENDEZ: Thank you,

Chairman Dilan. I don't know, my opinion is if we did more while their sites were still active, maybe we wouldn't have all of these safety issues

1  
2 afterward, because we're having safety issues  
3 while these sites are active.

4 COMMISSIONER LIMANDRI: Well I  
5 certainly would love to control the banking  
6 industry, but not on my purview.

7 COUNCIL MEMBER MENDEZ: Well maybe  
8 you can just control the safety issues on the  
9 sites when we complain about them, that would go a  
10 long way.

11 I am not sure, when Council Member  
12 Dilan asked about a stall site and abandoned site,  
13 what triggers then--if this gets passed, what  
14 would trigger it being an abandoned site over a  
15 stalled site?

16 COMMISSIONER LIMANDRI: No, I think  
17 it's a very good question. What we want the  
18 developers to do is we want them to come in and  
19 affirmatively tell us what they promise to do and  
20 that will be listed on a form that we give them,  
21 we agree to that. If they stop doing those tasks,  
22 then one would suggest, and we go through some due  
23 process, that they are not following their plan  
24 and they have essentially abandoned the site. So,  
25 for example, if they tell us that they're going to

1  
2 inspect and do the maintenance on the hoist  
3 monthly for the firemen and they're going to  
4 inspect the crane monthly and do the maintenance  
5 and they're going to have an engineer of record  
6 walk through the site once a month and they're  
7 going to give us one report that says that that's  
8 all done and we start not getting that, that's  
9 grounds for us to take them out of the program and  
10 they're abandoned.

11 COUNCIL MEMBER MENDEZ: And if they  
12 provide the report, you're going to check to see  
13 whether all that stuff was done and not that  
14 someone's just providing these reports and not  
15 really doing it?

16 COMMISSIONER LIMANDRI: Well one of  
17 the things that you realize is that when they say  
18 that they've done them and they've submitted a  
19 report to the Department, they're coming from  
20 licensees, they're coming from registered people  
21 with the Department. If they're found falsely  
22 filing reports, the Department will be able to  
23 take away their privileges to file any document  
24 with the report, which is new.

25 COUNCIL MEMBER MENDEZ: And they

1  
2 get to determine what they're going to do, the  
3 Department's not going to ask them to submit  
4 monthly, they can say we're going to submit once  
5 every two months, once every three months, this  
6 inspection--

7 COMMISSIONER LIMANDRI:

8 [Interposing] Well, you know, they're going to  
9 make a suggestion of what the requirements are, it  
10 doesn't mean that we're not going to go back to  
11 them and say, we don't agree, we want you to do it  
12 monthly versus every two months, but every site is  
13 different. There are some sites that are not  
14 going to have the same requirements as others. So  
15 a single-family home in Queens and that's maybe  
16 half built doesn't require the same number of  
17 inspections and by the same qualified people as a  
18 three-story structure in Brooklyn, perhaps.

19 COUNCIL MEMBER MENDEZ: Or a 10-  
20 story in Manhattan, but so--

21 COMMISSIONER LIMANDRI:

22 [Interposing] Right, so I mean I think we have to-  
23 -

24 COUNCIL MEMBER MENDEZ: --the  
25 Department is not going to set some framework for

a multiple dwelling, for a one-family home, for--

[Crosstalk]

COMMISSIONER LIMANDRI:

[Interposing] We are going to--

COUNCIL MEMBER MENDEZ: --six

stories.

COMMISSIONER LIMANDRI: Well we are going to give them guidelines because we all know that they have to start somewhere, and I talked briefly about it with Chairman Dilan, which is to say, if you're in excavations, these are the requirements that you're going to have to look at; if you're in superstructure, this, and if we need to we'll deal with single-family or three-family homes, wood structure versus multiple dwellings, we can do that. I mean, we are going to set a bar for the minimum, it's only going to make our job easier to tell them in advance what we want because it's just like Local Law 11, when it comes we want an easy way to be able to receive it and understand if they're doing the right thing, so we will provide guidelines for them of what to follow. I think you're on-point.

COUNCIL MEMBER MENDEZ: Can you

1  
2 tell me just several reasons why work at some of  
3 these sites has been suspended for 12 months or  
4 longer?

5 COMMISSIONER LIMANDRI: There are  
6 many different reasons. One, it could be that the  
7 bank has done an inspection of the site and  
8 they've done a reevaluation and recalculation and  
9 then, based on the terms and conditions that they  
10 went in, either the market has changed or the  
11 financing terms have changed. So, for example, if  
12 they took out a construction loan based on a  
13 project and they've only done 20 or 30% of that  
14 project, the bank has decided to cut its losses  
15 and they pull the rest of the financing and they  
16 say we're not going to do this deal anymore, and  
17 the developer is standing there with half a built  
18 building. It's possible that he defaults on his  
19 payments. There is a set of terms that in the  
20 construction project that he has to make some  
21 minimal payments. It's possible that partners  
22 have other financial--you know, partners in a  
23 project, joint ventures have problems in a  
24 project.

25 COUNCIL MEMBER MENDEZ: Other than

1  
2 financial reasons, what could be a reason that  
3 work has been suspended for 12 months or longer?

4 [Pause]

5 COMMISSIONER LIMANDRI: They could-

6 -

7 [Crosstalk]

8 MS. AMER: Construction?

9 COMMISSIONER LIMANDRI: What's  
10 that?

11 MS. AMER: Error.

12 COMMISSIONER LIMANDRI: Well they  
13 want to take the project in a different direction;  
14 they decide that they don't want to make a hotel,  
15 they want to make a condo. It's possible that  
16 there could be other reasons, I mean, I'm sure  
17 construction projects stop every day for other  
18 reasons, but at the moment I'm not sure I'm  
19 following--do you have some thoughts?

20 COUNCIL MEMBER MENDEZ: Well, yes,  
21 but I'll get to it in a second.

22 COMMISSIONER LIMANDRI: Okay.

23 COUNCIL MEMBER MENDEZ: --'cause in  
24 this list I find very fascinating you have 75 1st  
25 Avenue on this list, on the stall list, so I don't

1  
2 know how it gets on here, all I know is 75 1st  
3 Avenue is a building I have been complaining for  
4 three years. In February, DOB revoked its permits  
5 because it didn't comply with the zoning, but  
6 prior to that we've been engaged with the  
7 Department on a variety of violations on that site  
8 on and off. They don't have the foundation in the  
9 ground, but all their plans that they kept filing  
10 were wrong and didn't comply with zoning, so I  
11 just find it--you know, I don't know how it gets  
12 on--if this is just a list of--

13 CHAIRPERSON DILAN: [Interposing]

14 And, Council Member, I do want to get away from  
15 looking at individual buildings in the hearing.  
16 It's great that you cite it as an example because  
17 I think we need to know--

18 [Crosstalk]

19 COMMISSIONER LIMANDRI:

20 [Interposing] But the job sites, I do want to  
21 respond, the job sites--

22 CHAIRPERSON DILAN: [Interposing]

23 You can respond and I'm not sure if she's finished  
24 with her question, if she's not finished with her  
25 question, she can continue, but then after this, I

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

want to move away from specific buildings.

COUNCIL MEMBER MENDEZ: I'm just using this specifically to try to understand why it's a stalled site.

COMMISSIONER LIMANDRI: So today, the Department is using its resources, taking lists of permits or complaints, we get it in two different fashions: we either take a list of existing permits that are valid and we're basically driving around, going to those sites periodically, showing up unannounced to see if workers on the site, and if the site is progressing. We're also getting district managers and Council people calling us and saying, I think I have a problem site that's stopped, and that gets on the list. What we're trying to do right now is we're trying to track those because, regardless of why it stopped, it's sitting there, and if it's not maintained and if someone, if we don't have an emergency contact information, when something happens, either next door or down the block, or the site continues to deteriorate, we need to know that it's there. For example, if there were some heavy winds coming, it's possible

1  
2 that we would want to know that that site is  
3 stalled.

4 COUNCIL MEMBER MENDEZ: Thank you.

5 COMMISSIONER LIMANDRI: So it's  
6 regardless of the bill that's in front of you  
7 today.

8 COUNCIL MEMBER MENDEZ: Thank you.  
9 So this list that we've gotten now, these are all  
10 the sites that you identified currently as stalled  
11 throughout the city.

12 COMMISSIONER LIMANDRI: That we  
13 have--

14 COUNCIL MEMBER MENDEZ: Or is this  
15 exhaustive?

16 COMMISSIONER LIMANDRI: No.

17 COUNCIL MEMBER MENDEZ: So what is  
18 this right now? This is--

19 COMMISSIONER LIMANDRI: This is our  
20 ability to be able to visit those sites on a  
21 regular basis and be able to identify that no work  
22 is going on for some period of time, 30, 60, 90, 6  
23 months, that the job is not moving in any  
24 direction for whatever reason, whether it's  
25 because they ran out of money or because they lost

1  
2 their permit, they revoked their permit and they  
3 didn't--

4 [Crosstalk]

5 COUNCIL MEMBER MENDEZ:

6 [Interposing] So when you say it's not exhaustive,  
7 there may be other buildings you haven't been able  
8 to identify--

9 COMMISSIONER LIMANDRI: Sure.

10 COUNCIL MEMBER MENDEZ: --or you  
11 just haven't expected them?

12 COMMISSIONER LIMANDRI: Sure, I  
13 mean, there are 975,000 buildings, tons of  
14 neighborhoods, lots of work going on, lots of work  
15 that didn't continue, so what we need to do is we  
16 need a way for developers to come in proactively  
17 to assist us to be able to identify them, and not  
18 that they're just slowed or waiting for a  
19 delivery.

20 COUNCIL MEMBER MENDEZ: In your  
21 testimony you say on the bottom of page three that  
22 you have issued 400 violations to various stalled  
23 site since March. Can you tell me what kind of  
24 violations were issued and can you provide us with  
25 an exhaustive list of what those violations were?

1  
2                   COMMISSIONER LIMANDRI: I'm sure we  
3 can get you a list.

4                   COUNCIL MEMBER MENDEZ: Can you  
5 just give me some instances as some of the kind of  
6 violations that were issued?

7                   COMMISSIONER LIMANDRI: Sheet  
8 shuring [phonetic] and bracing not per code or  
9 deteriorating; dewatering, meaning necessary,  
10 meaning that there is stagnant water in the base  
11 of a construction site; extensive debris that  
12 hasn't been cleaned off the site, meaning they're  
13 in a concrete forming operation. See, one of the  
14 things that with a stalled site is different than  
15 a regular construction site is there's always  
16 going to be debris on the site but someone's there  
17 every day managing that and it's in the  
18 progression of building. Its when they basically  
19 stop with all of, for example, the form work  
20 stacked and ready to do the next floor and just  
21 sitting there, that becomes a fire hazard. What  
22 we would want is we would want all of that form  
23 work to be taken off the job site so that it  
24 doesn't lead to a potential problem. Those are  
25 the kinds of things that we're looking for.

1  
2 In the normal course of business,  
3 that would be there and people would be there on a  
4 regular basis, and there's no concern. If someone  
5 breaks down the fence and they get in and they  
6 wanted to be malicious, we could have a real  
7 problem on our hands.

8 COUNCIL MEMBER MENDEZ: Thank you  
9 very much, Mr. Commissioner. Thank you--

10 CHAIRPERSON DILAN: Thank you.

11 COUNCIL MEMBER MENDEZ: --very  
12 much--

13 [Pause]

14 CHAIRPERSON DILAN: Thank you,  
15 Council Member Mendez. Council Member White and I  
16 omitted Council Member Brewer.

17 COUNCIL MEMBER WHITE: Thank you  
18 very much, Mr. Chairman. Concerning the  
19 conditions of a site, companies have clerk of the  
20 works, right?

21 COMMISSIONER LIMANDRI: I'm sorry?

22 COUNCIL MEMBER WHITE: Clerk of the  
23 works.

24 COMMISSIONER LIMANDRI:  
25 Construction companies have....

COUNCIL MEMBER WHITE: Clerk of the work personnel.

COMMISSIONER LIMANDRI: Clerks.

COUNCIL MEMBER WHITE: Of the work.

COMMISSIONER LIMANDRI: Yeah.

COUNCIL MEMBER WHITE: And their job is to see that the work is proceeding according to the architectural plans.

[Off mic]

COMMISSIONER LIMANDRI: From the construction company, yes.

COUNCIL MEMBER WHITE: Right. Wouldn't they be the individuals as a point person, since that is true to be responsible to make sure all of the safety and the debris and everything is followed?

COMMISSIONER LIMANDRI: Yeah, what we're talking about now is that when buildings are in flux for financing, job crews go away, the guys that normally deal with a particular site, maybe they're assigned to seven jobs or they're assigned to a job where they got laid off. So what we're finding is that it's not as easy to find that person to be able to say, oh, yeah, I know that

1  
2 site, this is the problem with the site or, yeah,  
3 I'll take care of it, it may be more complicated  
4 answer to response to the Department.

5 COUNCIL MEMBER WHITE: Well they're  
6 not going to fire the clerk of the work. If only  
7 if the work is not going to be done. The clerk of  
8 the work has to be there at all times, am I  
9 correct?

10 COMMISSIONER LIMANDRI: There are  
11 many job sites where no one is on the job site  
12 right now and there may not be anyone there for a  
13 week, two weeks, or three months.

14 COUNCIL MEMBER WHITE: Okay.

15 COMMISSIONER LIMANDRI: So the job,  
16 they close the fence, they lock it and they walk  
17 away, doesn't mean that they don't want to keep  
18 building, but they're not there on a regular  
19 basis.

20 COUNCIL MEMBER WHITE: Okay. The  
21 other question I have is you had mentioned that  
22 for a project to be stalled, and you're asking for  
23 people to voluntarily come in and they can give  
24 you various reasons, such as financing, as you  
25 said, financing and other issues, and you said in

1  
2 order to have that permit you also have to have  
3 the insurance. Now when they come in and say we  
4 can not go any further, are they obligated to keep  
5 the insurance of that work in force?

6 COMMISSIONER LIMANDRI: Yes.

7 COUNCIL MEMBER WHITE: And do they  
8 have to give you a copy of that insurance being in  
9 force throughout until the final determination is  
10 made?

11 COMMISSIONER LIMANDRI: Yes.

12 COUNCIL MEMBER WHITE: Okay. So  
13 that in and of itself leads to my final question.  
14 If an insurance company--I don't know how it works  
15 with building a building--if you take out an  
16 insurance as a developer for the duration of what  
17 you project the project to be and it stalled and I  
18 come to you and I tell you, I plan to do this two  
19 years from now, all right, I still got four more  
20 years possibly to go. When I start that work, if  
21 you grant it, do I start again minus those two  
22 years or those years that I had it in force, does  
23 the clock stop? If I'm on the job for six months  
24 and I don't get a full year and I come to you and  
25 I say, listen, my financing is a little difficult,

1  
2 I won't be able to pay the insurance either, but I  
3 do plan, I'm looking for financing, but I do plan  
4 not to abandon this project, what happens to the  
5 timeline of that permit? Does it stop at that  
6 point?

7 COMMISSIONER LIMANDRI: Whenever  
8 you don't have insurance, it stops. The permit  
9 stops and we would allow you to renew as long as  
10 you have insurance for the two terms.

11 COUNCIL MEMBER WHITE: Yeah, but  
12 what I'm saying is, what happens to the community?  
13 I can't afford to finish the project and I cannot  
14 afford to continuously pay for the insurance.

15 COMMISSIONER LIMANDRI: Well then  
16 you're not going to be able to--you're basically  
17 going to have to abandon the project. If you  
18 can't afford the insurance for the permit.

19 COUNCIL MEMBER WHITE: But I will  
20 next year, next year I will be able to do it.

21 COMMISSIONER LIMANDRI: Then you'll  
22 have to find a partner to help you fund to afford  
23 the insurance because we're not going to give you  
24 a permit without insurance.

25 COUNCIL MEMBER WHITE: You're not

going to continue the permit without insurance.

COMMISSIONER LIMANDRI: We will not continue or give you a new renewal of a permit without insurance.

COUNCIL MEMBER WHITE: Okay. So now what about the safety aspects of the community? We have a site, no money, permit's been taken away, and we have blight in the community, we have a hole in the ground, we have graffiti going up on the fencing.

COMMISSIONER LIMANDRI: Well from a safety perspective, we put them on our list and we routinely will go out and inspect them to make sure that they stay safe. If there's remedial work that needs to be done, we would direct HPD to go forward and do that work and then we would watch and maintain the building because no one else is. But they don't get to be in the program, they'll get no benefits of this bill if the city has to do all that work--by going out and inspecting it on a regular basis and doing all this work.

COUNCIL MEMBER WHITE: And my last and final question in relationship to that, I

1  
2 heard you say that you're short of staff. So with  
3 all of this going on and being short of staff, how  
4 long would it take in a responsible way to get to  
5 all of the projects that have to be gotten to for  
6 you to certify whether or not they have been  
7 inspected, what's their determination? Because  
8 you're asking for people to volunteer to come in.

9 COMMISSIONER LIMANDRI: Well  
10 remember during a normal construction project if  
11 they were working, all of these people that work  
12 for the construction company for the developer  
13 would be there to make sure that they're following  
14 the code and that they are doing the day-to-day  
15 appropriate safety measures to protect the public  
16 and workers.

17 What we're saying is, is that  
18 because you end up in this stalled area and no  
19 one's on the job site on a regular basis, we want  
20 them to continue to be vigilant and spend money on  
21 the job site on a regular basis and, in return,  
22 we'll give you the ability to do the permitting.

23 You know, I think it's widely  
24 accepted that as permits go down, the Department  
25 of Building's resources can be reallocated to

1  
2 watch these buildings in some format, but we can't  
3 be the building owner's engineer to watch the  
4 building, and that's what this project is doing.  
5 It's saying to the building owner, look you want  
6 to be stalled, you want to be somewhere in this  
7 half-done arena, you're going to have to do  
8 something to maintain your status with the city to  
9 be safe and in return we will allow you to sort of  
10 pick up where you left off two years from now, for  
11 example, so that the Buildings Department and the  
12 City of New York doesn't have to do that for them.

13 COUNCIL MEMBER WHITE: I agree, I  
14 just think we need a little more teeth. I  
15 understand the concept and the direction that  
16 you're asking people to volunteer in, but with the  
17 economic conditions as they are, not just in the  
18 city, in the state, and the nation, you know, I  
19 think all too well, I mean, you're looking for  
20 these volunteers, but if somebody has invested 2,  
21 3, or \$400,000 in a project I don't think they're  
22 going to be willing to volunteer anything until--

23 COMMISSIONER LIMANDRI:

24 [Interposing] Well just think about it though if  
25 they spend 400 grand on a property and they're

1 sitting with it and they've decided they're going  
2 to wait it out, it's probably better to wait it  
3 out with something in your hand that says I can  
4 build what I said I was going to build two years  
5 ago then wait it out without that, and that's the  
6 financial incentive that he has--to basically sell  
7 it to somebody else maybe because he still will  
8 not have the wherewithal. It just puts him in a  
9 better position and it puts the city in a better  
10 position to move construction forward in this  
11 really tenuous time. I agree with you, things are  
12 not good, they will get, most likely get worse.  
13 So what we want to do is we want to provide for an  
14 opportunity for people that were in the middle to  
15 give them some relief to go back to work if the  
16 market allows. I mean this city can come back, it  
17 has before. The Buildings Department doesn't want  
18 to be in the way. The best thing that we can do  
19 is not force you to come back, re-file, go through  
20 the permitting process, go through the approval  
21 process, and force you to wait six or seven months  
22 when you did it already. The banks says yes,  
23 we'll give it a go. We don't want to force that  
24 building owner to come back to us and redesign  
25

1  
2 their building necessarily.

3 CHAIRPERSON DILAN: [Interposing] I  
4 want to jump in. Council Member White, does that  
5 conclude your--

6 [Crosstalk]

7 COUNCIL MEMBER WHITE:  
8 [Interposing] Yes, it does. Thank you, Mr.  
9 Chairman.

10 CHAIRPERSON DILAN: Okay. Thank  
11 you. Council Member Brewer.

12 COUNCIL MEMBER BREWER: Thank you,  
13 mine are very quick. Robert Jackson asked about  
14 the permits that are posted and I know that  
15 they're on the Web, up-to-date, sometimes people  
16 forget to put them up on the site, most people do.  
17 Will there be something--simple question--that  
18 says stalled site, this is one; some piece of  
19 paper that you can add to your building permit on  
20 the site?

21 COMMISSIONER LIMANDRI: We can look  
22 at that.

23 COUNCIL MEMBER BREWER: The reason  
24 I say that is and then if there's not, they, the  
25 public, does not go to the Web, we go to the web,

1  
2 the public doesn't, so then they call us, they  
3 call 311, and they call--so to minimize those  
4 calls, a piece of paper, big sign making it clear  
5 would be helpful, maybe adding to legislation or  
6 do it in regulations.

7           Second issue is one of the big  
8 problems in Manhattan is going to be the sheds,  
9 they're going to stay up longer because you're  
10 worried about, if there is such a thing, maybe the  
11 building isn't high enough for a shed, whatever,  
12 they're stores and those stores are going to have  
13 to--if there are, that might be something when  
14 you're driving around to note. But then maybe,  
15 again, getting over this silo effect, making sure  
16 the Department of Small Business Services knows  
17 about that. Those stores with the sheds, as you  
18 know, get hurt, so more time with the shed is a  
19 challenge, it's a good safety apparatus, but they  
20 complain to me all the time about the sheds.

21           And then the third issue is when in  
22 fact, let's hope the economy improves, the  
23 individual gets his permits because he has been in  
24 the program. What's the time frame for that? Say  
25 for instance, let's hope you get your financing,

1  
2 you say I have my financing now, I want to get off  
3 the stalled list. What would be the time frame  
4 for that experience?

5 COMMISSIONER LIMANDRI: Once you've  
6 decided that you want to come off the stalled  
7 list, I don't think it would be anything more than  
8 a week.

9 COUNCIL MEMBER BREWER: A week,  
10 okay.

11 COMMISSIONER LIMANDRI: There would  
12 be--I just wanted to comment, you indicated  
13 something about sheds, we have done a design  
14 competition going forward, I really encourage all  
15 of you to sort of check out the website. It's  
16 called urbanshed.org, we partnered with several  
17 other agencies including the AIA. We have--I'm  
18 proud to tell you that we have 273 registrants to  
19 give us the design and we have a power packed  
20 panel of excellent architects and engineers that  
21 will identify the three finalists in October. So  
22 we're very excited.

23 COUNCIL MEMBER BREWER: Okay.  
24 Thank you very much, but I still think we still  
25 have a small business problem, even with great

1  
2 signage. Thank you, Mr. Chair.

3 CHAIRPERSON DILAN: Thank you. And  
4 I think that those two were both excellent  
5 suggestions, I think some sort of public display  
6 that the site is stalled would actually go a long  
7 way to help, it may even go to help you in the  
8 management of your resources because you won't be  
9 sending inspectors to sites that are actually  
10 stalled and the public doesn't know, so I think  
11 that's an excellent idea.

12 And then on the shed component I  
13 certainly hope that they would have to demonstrate  
14 to the Department that the shed is actually  
15 necessary for safety in a stalled sites program.

16 So, with that, we'd like to thank  
17 you for coming and providing testimony. I know it  
18 did take longer than I expected, but there was a  
19 significant amount of interest in this subject  
20 amongst the members, so I thank you for indulging  
21 us for a little bit over two hours.

22 With that, we'll turn to the public  
23 portion of the hearing. And, again, we thank you  
24 for your time and for coming here today.

25 COMMISSIONER LIMANDRI: Thank you,

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Chairman.

CHAIRPERSON DILAN: I have two people that would like to testify in opposition to the bills, we have Mr. Ed Jaworski [phonetic] and Marilyn Shan [phonetic].

COUNCIL MEMBER WHITE: Mr. Chair? I beg your leave, I have a economic development meeting--

[Crosstalk]

CHAIRPERSON DILAN: [Interposing] Then I also note it for the record that Council Member Comrie stopped in briefly, he's Chairing a Consumer Affairs hearing across the hall. [Pause] Okay. You can begin in any order and when the light on the microphone is on, your mic is on. I would say push the button.

MARILYN SHAN: Thank you. Council Members, my name is Marilyn Shan and I'm--

CHAIRPERSON DILAN: [Interposing] Maybe bring it a little closer to you and then you can speak normally.

MS. SHAN: Okay. My name is Marilyn Shan and I live in the Homecrest Sheepshead Bay area of Brooklyn.

1  
2           The bill before the Committee seems  
3 to give the developers extra time and special  
4 considerations for joining a program that only  
5 requires them to do what they should be doing in  
6 the first place, which is to keep the site safe  
7 for the public. Why would the bill reward the  
8 developers with extensions and exclusions from any  
9 recent building code changes for doing the very  
10 basic upkeep to their sites?

11           I live in a block in southern  
12 Brooklyn with very small single-family homes.  
13 Developers bought several homes at one time and  
14 then left them boarded up for many years. The  
15 home opposite mine has been suspended for five  
16 years. All the sites became eyesores, as well as  
17 health and safety hazards affecting the  
18 neighborhood with problems such as snow and ice  
19 removal. Each winter none of the properties on my  
20 block which were suspended shoveled the snow from  
21 their sidewalks, which turned into ice and  
22 remained for days. This was repeated many times  
23 throughout the winter. People, including children  
24 and the elderly, had to go into the street with  
25 the traffic since they could not safely walk on

1  
2 the sidewalks.

3           Debris and garbage. On a daily  
4 basis these suspended sites and vacant spaces  
5 attract garbage and debris, not only on their  
6 property, but also all over the sidewalks and they  
7 are never cleaned as required by law. The garbage  
8 blows onto neighbors' properties and then they  
9 have to clean it up or face a fine.

10           Standing water. There have been  
11 many cases of standing water every spring and  
12 summer causing these sites to become health  
13 hazards for attracting mosquitoes.

14           Site fences. The fences have  
15 fallen down on the sidewalk and just missing some  
16 pedestrians, which we called 311 for. Other  
17 fences have even damaged neighbors' properties.

18           There are so many unsafe conditions  
19 on these suspended sites, however, they are not  
20 always evident at the time a building inspector  
21 comes weeks after a neighbor calls 311.

22           Under this bill, would a site be  
23 removed from the program for causing these unsafe  
24 conditions? Would the commission take into  
25 account DOB violations and remove a site from the

1  
2 program because of them? Would there be any  
3 strong penalties? Surprise inspections at the  
4 site should be made, rather than appointed days  
5 and times, otherwise, the commission would not get  
6 a true picture of the site conditions.

7 This bill should include very  
8 specific references to site upkeep and penalties,  
9 in addition to the stated securing the site and  
10 checking equipment. All of these continuing  
11 problems greatly impact the quality of life for  
12 our neighbors and reduces our property values.  
13 Thank you.

14 CHAIRPERSON DILAN: Thank you. Mr.  
15 Jaworski?

16 ED JAWORSKI: Good afternoon, and  
17 thank you for this opportunity. I've turned in a  
18 lengthy statement and will try not to duplicate  
19 it. I wrote these statements before hearing  
20 Commissioner LiMandri's testimony, so bear with  
21 that.

22 CHAIRPERSON DILAN: We can enter  
23 your statement into the record as if read in full,  
24 we'll do that at the conclusion of your verbal  
25 testimony.

1  
2 MR. JAWORSKI: Okay. Blight was an  
3 item when I was part of a group in the Four  
4 Borough Neighborhood Preservation Alliance that  
5 met with Councilman Dilan back in 2006. The  
6 difference is that I want to help residents living  
7 with blight on their blocks, not developers.

8 I first learned of this bill via a  
9 story in the New York Times in July. I smiled  
10 when I saw the headline Fighting Eyesores Before  
11 They Start, but then I frowned upon seeing the  
12 headline to be misleading, since these eyesores  
13 already exist, as Council Member Mendez already  
14 mentioned.

15 Intro 1015 does nothing to correct  
16 the eyesores. It is not a new program, it only  
17 addresses safety, which I don't want to disparage  
18 but there's more to it than that. It has the  
19 potential to perpetuate blight into the future,  
20 rather than finding a real remedy and improving  
21 the condition in some way today. The potential is  
22 for developers using the dormant period as an  
23 insidious blockbusting tactic.

24 It does nothing for a woman who  
25 died, probably with stress involved, worrying

1  
2 about her yard collapsing into a giant hole in the  
3 ground at the corner of Avenue West and East 16th  
4 Street in Brooklyn. With broken sidewalk,  
5 garbage, weeds, and decrepit wooden fence, the  
6 sidewalk along 16 Ten Ave West is nearly  
7 impassable and a deep hole is a garbage pit,  
8 rather than a luxury condo building.

9           It does nothing for neighbors of  
10 2609 Avenue R which is painted with a decades  
11 worth of complaints, violations, unpaid fines  
12 totaling over \$40,000, and stop work orders for  
13 working without permits. A scaffold has been  
14 standing, rotting, threatening a neighbor for five  
15 years; DOB says it's a civil matter.

16           It does nothing for neighbors of  
17 1834 East 26th Street living for years next to a  
18 filthy stop worked house that is home to rodents,  
19 pigeons, and was originally supposed to have just  
20 interior work, and is now a dormant blight  
21 property; DOB says it's a civil matter.

22           It does nothing for the way Ocean  
23 Avenue, especially between avenues S through U,  
24 has been decimated by condo developers. They took  
25 down large Victorian homes which the community

1  
2 needed and left behind incomplete projects, unsold  
3 condos and blights--and these are just a few  
4 examples.

5 For the past dozen years, Community  
6 Board 15 at the southern end of Brooklyn has been  
7 a target of illegal work. These sites need  
8 compliance and clearing now and I don't mean by  
9 legalizing work through PAA's or creating a back  
10 door. CB 15 has one of the highest rates of demo  
11 permits and stop work orders in Brooklyn. If  
12 financing is one problem, then the DOB and BSA  
13 should require real, not fictional, financial  
14 proof, marketing plans, cost estimates, and a  
15 history of past performances.

16 Commissioner LiMandri said he wants  
17 developers to think through their plans, why isn't  
18 this done now when permits or variances are  
19 applied for at the DOB or BSA? He also referred  
20 to flipping sites as something of a solution. We  
21 see that this is being done now with special  
22 permits under ZR73622. Not only DOB, but the BSA  
23 needs scrutiny for what it has been accepting.

24 Reading the New York Times Magazine  
25 last March with the cover All Boarded Up, I'm sure

1  
2 a lot of you saw it last March, it dealt with a  
3 city in Michigan--or was it Cleveland? I think it  
4 was Cleveland. Was it? Was it Michigan? Okay.

5 I realize that this is a  
6 complicated issue. Admittedly, I don't know the  
7 answer, but it is not by giving another bonus to  
8 developers and relying on the public to call 311  
9 when the public lacks confidence in DOB's  
10 responsiveness right now.

11 Commissioner LiMandri wants the  
12 public to get involved in this thing. Is that  
13 realistic? Councilman Avella a couple of years  
14 ago proposed a bill to have volunteers do this  
15 kind of work. Borough President Markowitz at one  
16 time said volunteers should not be doing this kind  
17 of work, so, you know, where are we going to get  
18 this [off mic] here? And who is going to buy a  
19 house or condo that's been standing vacant,  
20 rotting away, molding for four or five years? We  
21 see one of these buildings over on Kimball  
22 [phonetic] Street, the famous Kimball Street  
23 building, they were supposed to take down two  
24 floors, what about four or five years ago. Who's  
25 going to buy a house or a condo in one of these

1  
2 buildings? These things are rotting away and it's  
3 just unrealistic, as Councilman Fidler, a lot  
4 needs to be filled out as far as specifics go in  
5 this bill. Thank you.

6 CHAIRPERSON DILAN: Thank you both,  
7 and I believe Council Member Fidler would like to  
8 address.

9 COUNCIL MEMBER FIDLER: Yes, and  
10 first I want to thank particularly Mr. Jaworski.  
11 Many of the questions that I had the opportunity  
12 to pose were given to me. I had asked Ed to  
13 circulate this bill and to get some ideas and I  
14 think a lot of them are very, very well put.

15 And I just want to say that I think  
16 it is clear that this bill doesn't go to, and  
17 never will go to, the inadequacies of the Building  
18 Department, it certainly doesn't go to the  
19 inadequacies of BSA, that my colleagues have been  
20 entertained here by some of my comments about BSA  
21 in the past.

22 But if, in fact, the specifics are  
23 put in, for those developers that do comply and,  
24 unfortunately, I think you're probably right, that  
25 it's only going to affect a small number of these

1 sites, it's not going to affect the sites for the  
2 developers that just don't give a damn. I think  
3 they will find other ways to try and perpetuate  
4 their properties, and they'll flip it to somebody  
5 else who will walk in and say, hey, I had nothing  
6 to do with what they did at this property before  
7 me, I'm a new guy, I bought it at an auction,  
8 whatever. I think we're going to see a lot of  
9 that, but if we do tighten this bill up in many of  
10 the ways that you suggested, many of the ways I  
11 actually heard from the Commissioner, even though  
12 the bill doesn't say what he said, if the bill did  
13 say it, I think in those instances we'd have some  
14 real relief and some real hope, so I think it's a  
15 good starting point.  
16

17 Again, I want to thank you for your  
18 testimony.

19 Mr. Chairman, I handed you a list  
20 of things that I had wanted on the amendment, I  
21 did hear from Ms. Shan snow and ice removal, I  
22 think that I want to add that to the list.

23 CHAIRPERSON DILAN: I've taken the  
24 liberty to add the snow and ice--

25 COUNCIL MEMBER FIDLER: Yes.

2 CHAIRPERSON DILAN: --removal and  
3 included in the maintenance of the sidewalk in the  
4 summer.

5 COUNCIL MEMBER FIDLER: Yeah,  
6 that's on here already, maintain sidewalk repairs  
7 is on the list.

8 So I want to thank you both and  
9 hopefully you've helped make this a better bill.

10 MALE VOICE: Thank you.

11 MR. JAWORSKI: Well this is a  
12 worthwhile start, it is, I don't want to negate  
13 the whole thing, it is a worthwhile start, but  
14 there are a lot of questions and there are some  
15 questions that were left really on the table. I  
16 don't think that Councilman Vacca fully understood  
17 what was going on with this vesting and zoning  
18 changes and so forth. I didn't understand what  
19 came out of that.

20 COUNCIL MEMBER FIDLER: Well if I  
21 could, if I understood that correctly, I don't  
22 think this bill affects anything regarding zoning.  
23 I mean the real issue is the new building code as  
24 opposed to the old building code, that's a huge,  
25 huge issue for someone who would have to re-file a

1  
2 permit. But I think the zoning issue remains that  
3 if the foundation was poured, I don't think it  
4 would matter if the permit expired and the next  
5 person came by. I think if the foundation's been  
6 poured, it's the zoning that was in effect at the  
7 time the foundation was poured that's going to  
8 rule, so I don't think this bill affects it.

9 MR. JAWORSKI: Thank you very much.

10 MS. SHAN: Thank you.

11 CHAIRPERSON DILAN: I believe  
12 Council Member Mendez wanted an opportunity to....

13 COUNCIL MEMBER MENDEZ: No, Mr.  
14 Chair, I would just like a copy of some of the  
15 things Council Member--

16 CHAIRPERSON DILAN: Okay. What--

17 COUNCIL MEMBER MENDEZ: --Fidler--  
18 here it is.

19 CHAIRPERSON DILAN: Yeah, well--

20 COUNCIL MEMBER MENDEZ: And I  
21 wanted an opportunity to get you some comments.  
22 Do we have a sense of when this bill is going to  
23 go forward?

24 CHAIRPERSON DILAN: At this time,  
25 no, but I would suggest that any comments be done

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

as soon as possible so that--

COUNCIL MEMBER MENDEZ:

[Interposing] I will work on that ASAP, Mr. Chair.

CHAIRPERSON DILAN: Okay.

COUNCIL MEMBER MENDEZ: Thank you.

CHAIRPERSON DILAN: Thanks.

MR. JAWORSKI: Could I just add one other comment? I don't know how this meeting was publicized, where it went. I mean, I sent out an e-mail to about a hundred people, but putting it into a city record or something like that isn't the same as getting into a local newspaper or the Daily News or whatever. I am very surprised that there aren't a lot of folks from a lot of civic organizations here.

CHAIRPERSON DILAN: Noted. Thank you for your time and your testimony, and we do have some housekeeping statements that we have to add testimony for the record. [Pause] We have a statement from the Queens and Bronx Building Association and the Building Industry Association of the City of New York with testimony and support to be entered for the record. As well as

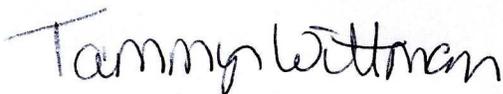
1  
2 testimony from the Real Estate Board of New York,  
3 which I believe is in favor, that will also be  
4 added into the record.

5 And, with that, Intro 1015 will be  
6 laid aside and that will conclude this hearing.

7 COUNCIL MEMBER MENDEZ: Erik, we  
8 can get keep of those?  
9

C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in black ink that reads "Tammy Wittman". The signature is written in a cursive style with a large initial 'T'.

Signature\_\_\_\_\_

Date October 2, 2009